

THE CALIFORNIA STATE ATHLETIC COMMISSION

JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE'S 2000 SUNSET REVIEW REPORT

*Four Year Overview of the Commission's Regulatory Program,
Commission's Response to Issues and Recommendations from Prior 1996/97 Sunset
Review, Background Paper for 1999 Public Hearing, Commission's Response to
Issues and Recommendations from 1999/2000 Sunset Review, and Final
Recommendations of the Joint Committee and the Department of Consumer Affairs*

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PART 1.

California State Athletic Commission

BACKGROUND INFORMATION AND FOUR YEAR OVERVIEW OF THE CURRENT REGULATORY PROGRAM

BACKGROUND AND DESCRIPTION OF THE BOARD AND PROFESSION

History And Function Of The State Athletic Commission

The State Athletic Commission (Commission) was created by an initiative of the people of California in 1924. This Commission regulates professional and amateur boxing and professional and amateur full-contact martial arts. There are approximately 100 professional boxing events, 150 amateur boxing events, and 70 professional/amateur full-contact martial arts events held in California each year. This is more than double the number of events held in any other state in the nation. The Commission regulates boxing and full-contact martial arts throughout the state by licensing all parties involved in any event and by maintaining full control over the administration of each event. This regulatory process maximizes the health and safety of the athletes and ensures that events are fair and competitive. The overall effect is protection of the athletes and consumers who pay to attend these sporting events.

Commission Composition

All of the Athletic Commission's appointees are public members. Five of the members are appointed by the Governor, one is appointed by the Assembly Speaker and one is appointed by the Senate Rules Committee. The following commissioners comprise the Athletic Commission:

Commission Member	Appointing Power	Term Expires
H. Andrew Kim	Governor	6-1-00
Manuel "Cal" Soto	Assembly	6-1-02
Elmer Costa	Senate	6-1-02
Vacant	Governor	
Vacant	Governor	
Vacant	Governor	
Vacant	Governor	

It should be noted that a majority of the appointed members of the commission constitute a quorum for the transaction of business. The affirmative vote of a majority of those commissioners present at a meeting constituting at least a quorum is necessary to render a decision or pass a motion.

The Commission has reduced the number of standing committees to the following:

- Arbitration Committee
- Pension Plan Committee
- Medical and Safety Standards Advisory Committee
- Legislative Committee
- Officials' Committee
- Amateur Boxing Committee
- Martial Arts Advisory Committee

The Athletic Commission regulates all professional and amateur boxing events and professional and amateur full-contact martial arts events. In addition, the commission licenses the following:
(Note: all licenses are Practice Acts)

- Professional Club (Promoter)
- Amateur Club
- Professional Boxer
- Professional Full-Contact Martial Arts Fighter
- Amateur Full-Contact Martial Arts Fighter
- Gymnasium
- Amateur Referee
- Amateur Judge
- Professional Referee
- Professional Judge
- Manager
- Second
- Matchmaker
- Assistant Matchmaker
- Timekeeper

Note: The commission no longer licenses the following:

- Ticket Seller
- Ticket Taker
- Box Office Employee
- Door Person

Major Changes To Commission Since Last Review

In 1997 the Commission's composition dropped from eight (8) commissioners to seven (7). Five (5) are appointed by the Governor, one is appointed by the Assembly Speaker and one is appointed by the Senate Rules Committee.

In 1996 legislation was chaptered requiring HIV/HBV testing as a condition of licensure for professional boxers and professional full-contact martial arts fighters.

In 1996 the Professional Boxers' Pension Plan was changed from a "defined benefit" plan to a "defined contribution" plan. The plan is no longer funded by contributions from boxers, managers and promoters. Funding is now based on a per-ticket assessment (both tickets sold and complimentary tickets) for each professional boxing event. The per-ticket assessment was established at 46 cents per-ticket but subsequently increased to 88 cents per-ticket.

In 1997 the Commission completely revised the required neurological examination as a licensure requirement for professional boxers. A neurological examination is still required and must be administered by a neurologist or neurosurgeon; however, the Commission no longer requires applicants to be seen by a neurologist or neurosurgeon under contract with the commission. An applicant may now be examined by any licensed neurologist or neurosurgeon in any state. The examination itself was modified and condensed as was the funding of the neurological program. The Commission lowered the per-ticket assessment from \$1.25 per-ticket to 60 cents.

There are several major issues that have occurred since the last review in 1996:

Business and Professions Code (B&PC) Section 18830 states as follows:

"Person" – "Closed Circuit Telecast."

As used in this article:

- (a) "Person" includes a promoter, club, individual, corporation, partnership, limited liability company, association or other organization.
- (b) "Closed circuit telecast" includes any telecast or broadcast, transmitted by any means, including subscription where an extra or additional fee is charged where an identifiable or particular fee is charged for the viewing within this state of a simultaneous telecast of any live, current, or spontaneous match or wrestling exhibition.

The Commission has always interpreted this statute as the authority to collect a five percent (5%) tax on pay-per-view broadcasts. This statute went into effect in 1985 prior to consumers watching boxing matches in their home via pay-per-view. The commission introduced regulations to clarify this authority based upon the text of B&PC 18830 that states in part, "...closed circuit telecast includes any telecast or broadcast, transmitted by any means..."

The Commission was expecting a major increase in revenue possibly up to \$800,000 per year. However, the Commission was sued by United States Satellite Broadcasting Co. Inc. (USSB) arguing that this statute violated the free speech amendment. United States District Judge William Shubb agreed with USSB and enjoined the Commission from enforcing B&PC 18830. The Commission had planned on these additional revenues to decrease reliance on the General Fund.

Pursuant to Business and Professions Code Section (B&PC) 18881 the Commission is required to establish a pension plan for boxers who engage in boxing contests in this state. This pension plan was established in 1981. B&PC 18881 also states the method of funding the plan and what is considered sufficient funding. The Commission imposed an assessment on professional boxing promoters based upon tickets sold and complimentary tickets. The assessment was 46 cents per-ticket and subsequently increased to 88 cents per-ticket in May 1999.

This method of funding is not adequate in light of the phenomenon of boxing promotions now being held on Indian reservations. Boxing promoters are being paid substantial "site fees" by Indian tribes with gaming casinos. Under federally prescribed circumstances, the Commission may supervise these events on reservations. However, the Commission may not collect an assessment on tickets for the boxers' pension plan.

Business and Professions Code Section (B&PC) 18711 states in part "...The commission shall require, as a condition of licensure and as a part of the application or renewal process, the examination by a licensed physician and surgeon who specializes in neurology or neurosurgery..." B&PC 18711 also prescribes an assessment on professional boxing promoters to fund this program. The Commission currently charges an assessment of 60 cents per-ticket sold and complimentary tickets.

This source of funding for the required neurological testing of boxers is also eroding, as is the funding for the Professional Boxers' Pension Plan, due to events being promoted on tribal land.

Another issue of professional boxing events taking place on Indian reservations is the collection of the 5% state tax on gross sale of tickets. This tax is required pursuant to Business and Professions Code Section (B&PC) 18824. However, State laws are not applicable on sovereign land and it is not uncommon for 45% of California bouts to take place on reservations.

The Federal Boxing Act does authorize state athletic commissions to supervise live boxing events held on tribal land if that particular tribe does not have a tribal athletic commission with health and safety rules at least equal to those of that particular state.

This Commission supervises all professional boxing events held on tribal land at the request of the majority of the tribes whether there is a tribal athletic commission in place or not. This Commission is seeing lost tax revenue based upon gross ticket sales because it performs supervisory services for a flat fee of \$1,500 per event. Previous Commission personnel negotiated this flat fee to gain access to tribal lands to provide for the health and safety of the participants.

Section 18640 of the Business and Professions Code (B&PC) provides that the Commission has jurisdiction over all professional and amateur boxing and professional and amateur full-contact martial arts. A new form of full-contact martial arts has evolved and is known as “mixed martial arts” or “submission fighting”. As these events are currently illegal and many of them have gone underground to avoid Commission intervention. These events can be regulated and taxed by the Commission when regulations are promulgated. The Commission’s Martial Arts Advisory Committee has met with various mixed martial arts promoters and an initial set of regulations has been drafted.

The last and most controversial issue facing the commission is the pregnancy testing of boxers and martial arts fighters. Currently, the commission does not have the authority to require this and the California commission is one of the few state athletic commissions that does not afford this protection to the female athletes. The Commission has attempted, without success, several times to initiate the legislation process to implement testing prior to each bout. A survey of California female boxers and martial arts fighters was taken and a majority agree that this should be required. It is only a matter of time before a tragedy will occur and the liability will be tremendous. A signed waiver or affidavit may suffice but there are 16 and 17 year-old females fighting as amateur martial arts fighters.

Licensing Data

For Fiscal Year 1998-99, the Commission licensed approximately 1968 persons/business entities. The following provides licensing data for the past four years:

LICENSING DATA FOR [PROFESSION]	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Total Licensed	Total: 1820	Total: 1871	Total: 1685	Total: 1968
California	1820	1871	1685	1968
Out-of-State	n/a	n/a	na	n/a
Applications Received	Total: 1835	Total: 1965	Total: 1772	Total: 2025
Applications Denied	Total: 15	Total: 94	Total: 87	Total: 57
Licenses Issued	Total: 1820	Total: 1871	Total: 1685	Total: 1968
Renewals Issued	Total: 1092	Total: 1123	Total: 1010	Total: 1227
Statement of Issues Filed	Total: n/a	Total: n/a	Total: n/a	Total: n/a
Statement of Issues Withdrawn	Total: n/a	Total: n/a	Total: n/a	Total: n/a
Licenses Denied	Total: n/a	Total: n/a	Total: n/a	Total: n/a
Licenses Granted	Total: n/a	Total: n/a	Total: n/a	Total: n/a

OTHER LICENSURE CATEGORIES (If Applicable)	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Total Licensees (By Type)	Total: 1,820	Total: 1,871	Total: 1,685	Total: 1,968
Professional Club	18	34	32	26
Amateur Club	12	12	6	8
Gymnasium	3	0	2	0
Closed Circuit Permit	581	292	253	65
Amateur Referee/Judge	5	6	5	3
Professional Referee	21	28	27	32
Professional Manager	180	206	186	180
Second	795	974	861	871
Timekeeper	7	15	14	17
Professional Boxer	647	768	618	663
Professional Judge	12	30	12	30
Matchmaker	3	13	9	11
Asst. Matchmaker	1	1	0	0
Drug Screen*	83	95	53	87
Licenses Issued (By Type) SAME AS ABOVE	Total: 1,820	Total: 1,871	Total: 1,685	Total: 1,968
Total Renewals Issued (By Type)	Total: 1,092	Total: 1,123	Total: 1,010	Total: 1,227
Professional Club	17	32	24	18
Amateur Club	11	11	5	6
Gymnasium	1	0	1	0
Closed Circuit Permit	0	0	0	0
Amateur Referee/Judge	4	5	4	3
Professional Referee	21	28	25	24
Professional Manager	130	134	168	155
Second	415	521	433	554
Timekeeper	6	15	13	16
Professional Boxer	481	346	321	416
Professional Judge	2	20	10	28
Matchmaker	3	10	6	7
Asst. Matchmaker	1	1	0	0
Drug Screen*	0	0	0	0
*Note: Drug screens are required for world title bouts and the boxers agree to pay for the screen by purse deduction. Other drug screens that are also paid for by purse deductions are a condition of licensure for previously failed drug screens.				

BUDGET AND STAFF

Current Fee Schedule and Range

Fee Schedule	Current Fee	Statutory Limit
Application Fees (By Type)		
Professional Club	1,000.00	1,000.00
Amateur Club	250.00	250.00
Gymnasium	10.00	200.00
Amateur Referee/Judge	50.00	50.00
Professional Referee	150.00	150.00
Professional Manager	150.00	150.00
Second	50.00	50.00
Timekeeper	50.00	50.00
Professional Boxer	60.00	60.00
Professional Judge	150.00	150.00
Matchmaker	200.00	200.00
Asst. Matchmaker	200.00	200.00
Exam Fee	n/a	n/a
Admin. Fee	n/a	n/a
Original License Fee	as above	as above
Renewal Fee	same as original fee	same as original fee

All Commission licenses expire December 31 of each year. The main sources of revenue from license fees are professional boxer, professional promoter, manager, and second. The major source of revenue is gate taxes. There are no plans to increase current fees.

Revenue and Expenditure History

Commission revenue projections and forecasts are difficult due to the cyclical nature of the industry. While the license population remains fairly constant each year the number of events varies and is unpredictable. In a given year there may be a low of 59 professional boxing events compared to a high of 145 events and this does not include professional and amateur full-contact martial arts events or wrestling exhibitions.

The Commission has three separate programs that contain expenditures and the production of revenue. The three programs are support, the Professional Boxers' Pension Program and the Professional Boxers' Neurological Program. Support is General Fund while the neurological and pension programs are special funds. Revenue and expenditures for each program follows:

- **Support:** Although the Athletic Commission is a General Fund Agency it is a revenue producing agency in which all collected revenues are deposited back into the General Fund. The major source of revenue is the 5% gate tax collected at live professional boxing events and professional wrestling exhibitions. License fees make up the remainder of the revenue sources. Because Commission revenues are deposited back into the General Fund, the Commission relies on the General Fund for approximately 3-4% of its budget. These General Fund deposits help to offset the Commission's expenditures.

It should be noted that with the exodus of professional boxing promotions to Indian reservations, a decline in revenue may be evident.

The Commission's support account includes three program components to effectively provide for the health and safety of the athletes and to collect the approximate revenue. Those components are: enforcement, licensing and administration. Enforcement accounts for 30% of expenditures, licensing 30% and administration 40%.

Analysis of fund conditions do not pertain to General Fund entities.

(Please refer to "Support" table on Page 10.)

- **Pension**: The Professional Boxers' Pension Program is a special fund program. It is funded by an assessment on tickets to professional boxing events. The current assessment is 88 cents per-ticket sold and complimentary tickets.

Program expenditures remain fairly constant while the revenues are declining. This decline is based upon professional boxing events being held on Indian reservations. Approximately 45% of all professional boxing events are held on tribal land and the Commission has no authority to collect the per-ticket assessment to adequately fund the program. With the generous "site fees" that Indian gaming casinos are now paying boxing promoters plus the fact that the Commission has limited fee collection authority, the Commission expects to see an increase in boxing events on tribal land.

The Commission's pension program has one program component, which is administration. This is 100% of the program expenditures and is funded through the 88 cents per-ticket assessment on professional boxing events.

The pension program's fund condition clearly defines the erosion of the fund primarily due to the Commission's inability to collect the per-ticket funding mechanism for bouts held on tribal land. Another factor in the receding funds is related to the distribution of refunds of contributions to eligible professional boxers. If professional boxers meet certain criteria they are eligible for a cash refund of contributions.

A further increase in the assessment would no doubt put some boxing promoters out of business and revenues would continue to decline.

(Please refer to "Pension" table on Page 11.)

- **Neurological**: The Neurological Examination Program is a special fund program. It is funded by an assessment on tickets to professional boxing events. The current assessment is 60¢ per-ticket sold and complimentary tickets.

Program expenditures and revenues have both decreased. The reduction in expenditures is primarily attributed to the Commission's discontinued use of contracted neurologists, neurosurgeons, and neuropsychologists. In 1997-98 the Commission no longer required the

services of the contract physicians because the Commission established that any licensed neurologist or neurosurgeon was capable of administering the examination.

Revenues have declined also due to a decrease in the per-ticket assessment in 1997 from \$1.25 to 60¢ per ticket. Again the revenues will show a decline because of the shift in fight venues to Indian reservations and the inability of the Commission to collect the applicable per-ticket assessment to administer the program.

When the Commission used contracted neurologists and neurosurgeons, and actually scheduled the examinations for the boxers, the program had three components: examinations, licensing and administration. Examination accounted for 52% of the expenditures, licensing 24% and administration 24%. With the deletion of the examination component, licensing is now 50% of the expenditures and administration is also 50%.

An analysis of the neurological program fund condition shows a decrease in reserves from a high of 21 months to an FY 02-03 reserve of 3.4 months. Again, this can be attributed to the reduction in the per-ticket assessment from \$1.25 to 60¢ along with more and more professional boxing events taking place on Indian reservations.

An increase in the per-ticket assessment would force some boxing promoters to cease operation and cause a further decline in revenue.

(Please refer to “Neurological Program” table on Page 12.)

**STATE ATHLETIC COMMISSION
SUPPORT**

REVENUES	Actual				Projected	
	FY95-96	FY96-97	FY97-98	FY98-99	FY99-00	FY00-01
Gate Taxes	\$ 703,429	\$ 467,492	\$ 417,078	\$ 614,726	\$ 623,000	\$ 623,000
License Fees	\$ 180,633	\$ 179,631	\$ 163,738	\$ 160,768	\$ 169,975	\$ 169,975
Fines & Penalties	\$ 7,445	\$ 7,946	\$ 6,575	\$ 10,093	\$ 13,000	\$ 13,000
Interest	\$ 4,380	\$ 4,066	\$ 4,358	\$ 4,286	\$ 4,000	\$ 4,000
TOTALS	\$ 895,887	\$ 659,134	\$ 591,749	\$ 789,873	\$ 809,975	\$ 809,975

EXPENDITURES	Actual				Budgeted	
	FY95-96	FY96-97	FY97-98	FY98-99	FY99-00 Budget	FY00-01 Budget
Personnel Services	\$ 400,281	\$ 392,251	\$ 398,172	\$ 404,539	\$ 584,835	\$ 584,835
Operating Expenses	\$ 272,258	\$ 280,471	\$ 320,019	\$ 371,619	\$ 176,165	\$ 176,165
(-) Reimbursements	\$ (2,926)	\$ (4,154)	\$ (2,519)	\$ (3,044)	\$ (3,000)	\$ (3,000)
(-) Distributed Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ 669,613	\$ 668,568	\$ 715,672	\$ 773,114	\$ 758,000	\$ 758,000

EXPENDITURES BY PROGRAM COMPONENT	FY95-96	FY96-97	FY97-98	FY98-99	Average % Spent by Program
Enforcement	\$ 200,884	\$ 200,570	\$ 214,702	\$ 231,934	30%
Examination	\$ -	\$ -	\$ -	\$ -	0%
Licensing	\$ 200,884	\$ 200,570	\$ 214,702	\$ 231,934	30%
Administrative	\$ 267,845	\$ 267,427	\$ 286,269	\$ 309,246	40%
Diversion (if applicable)	\$ -	\$ -	\$ -	\$ -	0%
TOTALS	\$ 669,613	\$ 668,568	\$ 715,672	\$ 773,114	100%

ANALYSIS OF FUND CONDITION	Actual FY97-98	Actual FY98-99	FY99-00 (Budget Yr)	FY00-01 (Projected)	FY01-02 (Projected)	FY02-03 (Projected)
Total Reserves, July 1	General Fund					
Total Rev. & Transfers						
Total Resources						
Total Expenditures						
Reserve, June 30						
MONTH IN RESERVE						

**STATE ATHLETIC COMMISSION
PENSION**

REVENUES	Actual				Projected	
	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Boxer's Pension	\$ 56,066	\$ 75,680	\$ 47,715	\$ 40,318	\$ 52,000	\$ 52,000
Fines & Penalties	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other *	\$ -	\$ -	\$ -	\$ (186,774)	\$ (113,000)	\$ (113,000)
Interest	\$ 4,483	\$ 10,590	\$ 12,609	\$ 21,526	\$ 6,976	\$ 325
TOTALS	\$ 60,548	\$ 86,270	\$ 60,324	\$ (124,930)	\$ (54,024)	\$ (60,675)

* Pursuant to Rule 405 of the CA Code of Regulations, pension refunds were issued beginning April 1999.

EXPENDITURES	Actual				Budgeted	
	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00 Budget	FY 00-01 Budget
Personnel Services	\$ 632	\$ 7,732	\$ 20,896	\$ 21,913	\$ 22,768	\$ 22,768
Operating Expenses	\$ 33,124	\$ 23,137	\$ 36,936	\$ 37,871	\$ 56,232	\$ 56,232
(-) Reimbursements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
(-) Distributed Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ 33,756	\$ 30,869	\$ 57,832	\$ 59,784	\$ 79,000	\$ 79,000

EXPENDITURES BY PROGRAM COMPONENT	FY 95-96	FY 96-97	FY 97-98	FY 98-99	Average % Spent by Program
Enforcement	\$ -	\$ -	\$ -	\$ -	0%
Examination	\$ -	\$ -	\$ -	\$ -	0%
Licensing	\$ -	\$ -	\$ -	\$ -	0%
Administrative	\$ 33,756	\$ 30,869	\$ 57,832	\$ 59,784	100%
Diversion (if applicable)	\$ -	\$ -	\$ -	\$ -	0%
TOTALS	\$ 33,756	\$ 30,869	\$ 57,832	\$ 59,784	100%

ANALYSIS OF FUND CONDITION	Actual FY 97-98	Actual FY 98-99	FY 99-00 (Budget Yr)	FY 00-01 (Projected)	FY 01-02 (Projected)	FY 02-03 (Projected)
Total Reserves, July 1	\$ 464,202	\$ 470,075	\$ 279,515	\$ 146,491	\$ 6,816	\$ (76,184)
Total Rev. & Transfers	\$ 64,459	\$ (130,153)	\$ (54,024)	\$ (60,675)	\$ (4,000)	\$ 62,360
Total Resources	\$ 528,661	\$ 339,922	\$ 225,491	\$ 85,816	\$ 2,816	\$ (13,824)
Total Expenditures	\$ 58,586	\$ 60,407	\$ 79,000	\$ 79,000	\$ 79,000	\$ 79,000
Reserve, June 30	\$ 470,075	\$ 279,515	\$ 146,491	\$ 6,816	\$ (76,184)	\$ (92,824)
MONTH IN RESERVE	93.4	42.5	22.3	1.0	-11.6	-14.1

**STATE ATHLETIC COMMISSION
NEUROLOGICAL PROGRAM**

REVENUES	Actual				Projected	
	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Boxer's Neuro Exam	\$ 143,120	\$ 120,839	\$ 41,274	\$ 49,584	\$ 75,000	\$ 75,000
Fines & Penalties	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other *	\$ -	\$ 4,913	\$ -	\$ 15,437	\$ -	\$ 5,000
Interest	\$ 4,870	\$ 3,823	\$ 3,536	\$ 2,917	\$ 3,873	\$ 3,217
TOTALS	\$ 147,991	\$ 129,575	\$ 44,810	\$ 67,938	\$ 78,873	\$ 83,217

* Return of FY 1991/92 General Fund Transfer

EXPENDITURES	Actual				Budgeted	
	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00 Budget	FY 00-01 Budget
Personnel Services	\$ 48,025	\$ 48,909	\$ 27,028	\$ 18,757	\$ 39,793	\$ 39,793
Operating Expenses	\$ 167,660	\$ 177,299	\$ 33,142	\$ 1,806	\$ 57,207	\$ 57,207
(-) Reimbursements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
(-) Distributed Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ 215,685	\$ 226,208	\$ 60,170	\$ 20,563	\$ 97,000	\$ 97,000

EXPENDITURES BY PROGRAM COMPONENT	FY 95-96	FY 96-97	FY 97-98	FY 98-99	Average % Spent by Program
Enforcement	\$ -	\$ -	\$ -	\$ -	0%
Examination	\$ -	\$ -	\$ -	\$ -	0%
Licensing	\$ 107,843	\$ 113,104	\$ 30,085	\$ 10,282	50%
Administrative	\$ 107,843	\$ 113,104	\$ 30,085	\$ 10,282	50%
Diversion (if applicable)	\$ -	\$ -	\$ -	\$ -	0%
TOTALS	\$ 215,685	\$ 226,208	\$ 60,170	\$ 20,563	100%

ANALYSIS OF FUND CONDITION	Actual FY 97-98	Actual FY 98-99	FY 99-00 (Budget Yr)	FY 00-01 (Projected)	FY 01-02 (Projected)	FY 02-03 (Projected)
Total Reserves, July 1	\$ 23,186	\$ 37,033	\$ 99,467	\$ 81,341	\$ 67,558	\$ 47,836
Total Rev. & Transfers	\$ 74,771	\$ 83,620	\$ 78,874	\$ 83,217	\$ 77,278	\$ 76,292
Total Resources	\$ 97,957	\$ 120,653	\$ 178,341	\$ 164,558	\$ 144,836	\$ 124,128
Total Expenditures	\$ 60,924	\$ 21,186	\$ 97,000	\$ 97,000	\$ 97,000	\$ 97,000
Reserve, June 30	\$ 37,033	\$ 99,467	\$ 81,341	\$ 67,558	\$ 47,836	\$ 27,128
MONTH IN RESERVE	21.0	12.3	10.1	8.4	5.9	3.4

LICENSURE REQUIREMENTS

Education, Experience and Examination Requirements

PROFESSIONAL BOXERS' NEUROLOGICAL EXAMINATION				
	1995/96	1996/97	1997/98	1998/99
CANDIDATES	1820	1871	1685	1968
PASS %	95%	97%	99%	100%

The Athletic Commission does not require any formal education or examination requirements. All of the combatant licensees (professional/amateur boxers and professional/amateur full-contact martial arts fighters) must possess at least a certain level of skill to enable them to safely compete against one another. If the skill level of these licensees is questionable, a licensee, or potential licensee, must physically demonstrate his or her ability. Commission Rule 283 entitled "Ability to Perform" states:

Before a license is issued to any boxer, the boxer shall satisfy the Commission that the boxer has the ability to compete. If at any time a boxer's ability to perform is questionable, whether from reasons of health, mental condition or no longer possessing the ability to compete or for any other reason, the Commission may, upon being satisfied of the boxer's lack of ability to perform, retire the boxer from further competition.

Any applicant for a boxer's license or a renewal thereof shall furnish a verified record of the applicant's last six boxing contests.

Licensees who do not fall into the combatant category or ring officials (referees, judges, timekeepers, and ringside physicians) must have adequate knowledge of Commission laws and rules so as not to jeopardize the health and safety of the fighters.

Officials and ringside physicians must pass a written examination relative to the laws and regulations of the Commission. These officials and physicians are required to attend clinics every six months for in-depth training. These clinics are conducted by senior commission staff and veteran officials. Business and Professions Code Section 18731 requires referees and physicians to attend these clinics and such topics as the recognition and diagnosis of serious or life-threatening, boxing-related and neurological injuries and disorders, and referee mechanics must be addressed.

All professional boxers are required, pursuant to Business and Professions Code Section 18711, to pass a neurological examination as a condition of licensure. Statistics on the pass rate are no longer kept because the examinations are no longer administered by physicians under contract with the commission. Prior to the current system of neurological testing, the pass rate was 99% when the tests were controlled by commission contracted physicians.

Professional boxing has long been known as a “blood sport” where the object is to render an opponent unconscious. The testing of licensees and testing and training of officials is crucial due to the nature of the sport and the fatal consequences that could occur if unqualified people are licensed. As for the professional boxers’ neurological examination, it has been empirically shown that multiple blows to the brain and prolonged blunt face trauma can significantly contribute to irreversible neurological brain damage. If these tests can detect even subtle physical changes a boxer’s health and safety will not be compromised.

AVERAGE DAYS TO RECEIVE LICENSE	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Application to Examination	5-30	5-30	5-30	5-30
Examination to Issuance	5-30	5-30	5-30	5-30
Total Average Days	5-30	5-30	5-30	5-30

Note: Some licenses (i.e. boxer/promoter) require that various and differing criteria be met, thus the discrepancy in processing times.

Continuing Education/Competency Requirements

No changes have been made to the licensing of boxers and full-contact martial arts fighters in regard to competency. The training clinic for officials and physicians is continually reviewed and upgraded.

Comity/Reciprocity With Other States

A large portion of this Commission’s licensees are from foreign countries. The California Athletic Commission has the most stringent qualifications that must be met before a license is granted. Due to the nature of the sport, this Commission has reciprocity with other states in regard to medical and disciplinary suspensions, boxers ring records and certain medical examinations. This Commission will not accept medical examinations from foreign countries.

ENFORCEMENT ACTIVITY

ENFORCEMENT DATA	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Inquiries	Total:	Total:	Total:	Total:
Complaints Received (Source)	Total:	Total:	Total:	Total:
Public	500	150	180	350
Licensee/Professional Groups	0	0	0	0
Governmental Agencies	0	0	0	0
Other	7	20	13	20
Complaints Filed (By Type)	Total:	Total:	Total:	Total:
Competence/Negligence	0	0	0	0
Unprofessional Conduct	0	20	30	25
Fraud	0	0	0	0
Health & Safety	500	150	150	125
Unlicensed Activity	0	0	0	200
Personal Conduct	0	0	0	0
Complaints Closed	Total: 505	Total: 167	Total: 189	Total: 367
Investigations Commenced	Total: 0	Total: 0	Total: 0	Total: 0
Compliance Actions	Total:	Total:	Total:	Total:
ISOs & TROs Issued	0	0	0	0
Citations and Fines				
Public Letter of Reprimand	0	0	0	0
Cease & Desist/Warning	40	25	35	40
Referred for Diversion	0	0	0	0
Compel Examination	0	0	0	0
Referred for Criminal Action	Total: 0	Total: 0	Total: 2	Total: 1
Referred to AG's Office	Total: 2	Total: 3	Total: 4	Total: 3
Accusations Filed	2	3	4	3
Accusations Withdrawn	0	0	0	0
Accusations Dismissed	0	0	0	0
Stipulated Settlements	Total: 0	Total: 0	Total: 0	Total: 0
Disciplinary Actions	Total:	Total:	Total:	Total:
Revocation	7	26	6	7
Voluntary Surrender	0	0	0	0
Suspension Only	285*	512*	315*	253*
Probation with Suspension	0	0	0	0
Probation	0	0	0	0
Probationary License Issued	0	0	0	0
Probation Violations	Total:	Total:	Total:	Total:
Suspension or Probation	0	0	0	0
Revocation or Surrender	0	0	0	0
*NOTES: Includes suspensions for boxers knocked out.				

Enforcement Program Overview

Any individual or group may lodge a complaint with the Commission against both licensed and unlicensed parties associated with boxing and full contact martial arts. The Commission may initially receive informal, verbal complaints during boxing shows and commission meetings (opportunities for public comment occur throughout commission meetings). In addition, the item entitled, "Public Comment on Items not on the Agenda" appears on all meeting agendas. Informal complaints may also be registered by telephone in the Sacramento and Los Angeles offices or via the Department's 800 toll-free number. While the Commission monitors informal complaints through its internal chronological filing system, it does not track telephone inquiries.

To formally file a complaint with the Commission, the complaint must be presented in the form of a written letter to the Commission. Facts surrounding the complaint must be included in the letter. Once received, the Executive Officer acknowledges to the complainant that the complaint has been received.

The commission receives complaints from both consumer and commission licensees. Complaints may be dismissed due to lack of cause or for non-jurisdictional reasons. Most non-jurisdictional complaints involve martial arts studios that are not regulated in any way. The majority of complaints are received from licensees in regard to boxer/manager contract disputes. A recent phenomenon involves e-mail complaints regarding illegal mixed martial arts or submission fighting events.

If a complaint concerns a judge's or referee's decision, the Executive Officer or the Assistant Chief Inspector views a videotape of the bout and makes an initial determination. The grounds for a change in decision are delineated Rule 368 of Title 4 of the California Code of Regulations. Utilizing this law, the Executive Officer informs the complainant of the decision in writing, who has 30 days to appeal to the commission itself. Depending upon the promoter's ability to provide a video tape of the bout on a timely basis, this entire process usually takes 4-12 weeks. The Commission makes a final determination in changing a disputed bout decision. Depending on specific criteria contained in Rule 368 of Title 4 of the California Code of Regulations, the Commission may or may not consider the appeal.

In instances of boxer/manager contract disputes, either party may request mediation assistance. All requests must be directed to the commission in writing. These disputes may involve an arbitration hearing, which, due to the authority vested in the Commission, do not involve an administrative law judge. Licensed boxers submit 98 percent of the arbitration requests received at the Commission. The formal arbitration is conducted by the Executive Officer with legal counsel provided by the Office of the Attorney General.

NUMBER AND PERCENTAGE OF COMPLAINTS DISMISSED, REFERRED FOR INVESTIGATION, TO ACCUSATION AND FOR DISCIPLINARY ACTION				
	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
COMPLAINTS RECEIVED	505	167	189	367
Complaints Closed	505	167	189	367
Referred for Investigation				
Accusation Filed				
Disciplinary Action				

Case Aging Data

Complaints received from the public are resolved and responded to within thirty (30) days. Complaints that involve licensees are usually boxer/manager contract disputes that generally take 90 days for resolution. Complex complaints that usually result in a lawsuit against the commission are referred to the Attorney General. Approximately 41.6% of all Attorney General cases are closed within one year of filing while 8% are closed within two years. Closure on cases in the 3-4 year range is approximately 8% for both categories.

AVERAGE DAYS TO PROCESS COMPLAINTS, INVESTIGATE AND PROSECUTE CASES				
	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Complaint Processing	30-90 days	30-90 days	30-90 days	30-90 days
Investigations	0	0	0	0
Pre-Accusation*	NA	NA	NA	NA
Post-Accusation**	NA	NA	NA	NA
TOTAL AVERAGE DAYS***	60 days	60 days	60 days	60 days
*From completed investigation to formal charges being filed. **From formal charges filed to conclusion of disciplinary case. ***From date complaint received to date of final disposition of disciplinary case.				

INVESTIGATIONS CLOSED WITHIN:	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99	AVERAGE % CASES CLOSED
90 Days					
180 Days					
1 Year					
2 Years					
3 Years					
Over 3 Years					
Total Cases Closed	NA	NA	NA	NA	NA
AG CASES CLOSED WITHIN:	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99	AVERAGE % CASES CLOSED
1 Year	1	1	2	1	41.6
2 Years		1			8.3
3 Years				1	8.3
4 Years				1	8.3
Over 4 Years					
Total Cases Closed	1	2	2	3	
Disciplinary Cases Pending	NA	NA	NA	NA	

Note: These are not disciplinary cases, they are lawsuits involving the commission.

Cite and Fine Program

The Commission is one of the few agencies in which the Commission, its executive officer, or a duly authorized representative has the authority to assess fines not to exceed \$2,500 for each violation of the Boxing Act or commission regulations.

These fines may be assessed without advance hearing, but the licensee may apply to the Commission for a hearing on the matter if such fine should be modified or set aside. This application for a hearing shall be in writing and shall be received by the Commission within 30 days after service of notice of the fine. Upon receipt of this written request, the Commission shall set the matter for hearing within 30 days.

CITATIONS AND FINES	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Total Citations	30	120	18	34
Total Citations With Fines	30	120	18	34
Amount Assessed	Varies	Varies	Varies	Varies
Reduced, Withdrawn, Dismissed	-0-	-0-	-0-	-0-
Amount Collected	7,447	27,097	6,485	12,518

Results of Complainant Survey

CONSUMER SATISFACTION SURVEY RESULTS*				
QUESTIONS		RESPONSES		
# Surveys Mailed:	721	SATISFIED		DISSATISFIED
# Surveys Returned:	322 (45%)	5	4	3
			2	1
1. Were you satisfied with knowing where to file a complaint and whom to contact?				
2. When you initially contacted the Board, were you satisfied with the way you were treated and how your complaint was handled?				
3. Were you satisfied with the information and advice you received on the handling of your complaint and any further action the Board would take?				
4. Were you satisfied with the way the Board kept you informed about the status of your complaint?				
5. Were you satisfied with the time it took to process your complaint and to investigate, settle, or prosecute your case?				
6. Were you satisfied with the final outcome of your case?				
7. Were you satisfied with the overall service provided by the Board?				
<p>*The JLSRC directed all board’s and committee’s under review this year, to conduct a consumer satisfaction survey to determine the public’s views on certain case handling parameters. (The Department of Consumer Affairs currently performs a similar review for all of its bureau’s.) The JLSRC supplied both a sample format and a list of seven questions, and indicated that a random sampling should be made of closed complaints for a four-year period. Consumers who filed complaints were asked to review the questions and respond to a 5-point grading scale (i.e., 5=satisfied to 1=dissatisfied).</p>				

Note: Current Commission personnel have no documentation that a Consumer Satisfaction Survey was completed. Staff will take the necessary steps to implement this survey.

ENFORCEMENT EXPENDITURES AND COST RECOVERY

Average Costs for Disciplinary Cases

The Commission, being a General Fund Agency, is allotted 600 hours of time at no charge by the Attorney General's office. The Commission is currently involved in several lawsuits where the Commission is the defendant. These cases account for most attorney time; however, at this point, the Commission foresees no budgeting issues.

AVERAGE COST PER CASE INVESTIGATED	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Cost of Investigation & Experts	NA	NA	NA	NA
Number of Cases Closed				
Average Cost Per Case				
AVERAGE COST PER CASE REFERRED TO AG	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Cost of Prosecution & Hearings	NA	NA	NA	32,000
Number of Cases Referred				
Average Cost Per Case				
AVERAGE COST PER DISCIPLINARY CASE				

***Note:** The \$32,000 involved two outside experts contracted with by the Attorney General's office.

Cost Recovery Efforts

COST RECOVERY DATA	FY 1995/96	FY 1996/97	FY 1997/98	FY 1998/99
Enforcement Expenditures	0	0	0	0
Potential Cases for Recovery*	0	0	0	0
Cases Recovery Ordered	0	0	0	0
	0	0	0	0

*The "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on a violation, or violations, of the License Practice Act.

RESTITUTION PROVIDED TO CONSUMERS

The only restitution provided for consumers is the guaranteed refund of tickets purchased for an event that has been cancelled. All promoters are required to post a surety bond as a condition of licensure. Restitution for boxers and manager, as a result of arbitration, is deducted directly from purse amounts. No formal restitution data is kept.

COMPLAINT DISCLOSURE POLICY

In the case of arbitrations, and in accordance with the Public Records Act, once formal action has been taken, the action becomes a public record and is therefore available to consumers upon request. Complaints, however, remain confidential. The Commission intends to implement a formal tracking system for public complaints.

CONSUMER OUTREACH AND EDUCATION

All commission activities and actions are presented at open commission meetings. These actions and activities are chronicled in the minutes of each meeting. All minutes are made available to the public via a mailing list. Anyone may request his or her name be placed on the mailing list.

PART 2.

California State Athletic Commission

COMMISSION'S RESPONSE TO IDENTIFIED ISSUES AND RECOMMENDATIONS FROM PRIOR 1996/97 SUNSET REVIEW

ISSUE #1 THE COMMISSION HAS UNDERGONE TWO AUDITS IN RECENT YEARS, AND AS A RESULT OF THOSE AUDITS, THE COMMISSION HAS IMPLEMENTED A NUMBER OF OPERATIONAL CHANGES:

- Developed and implemented controls over the Professional Boxers' Pension Plan. Specifically, this included:
 1. Establishing a system to track the amounts of purses earned by boxers,
 2. Ensuring that the amounts of contributions collected after each boxing show reconcile with the amounts of contributions deposited into the pension fund,
 3. Ensuring the accounting records reflect all assets, including those funds invested in its pension fund, and
 4. Ensuring that the interest rate, risk, and liquidity of its investments and of other investment opportunities available are periodically reviewed to determine whether other investments would provide a better rate of return.
- Reduced the cost of administering shows through the replacement of full-time positions with hourly inspectors,
- Reduced the scope of the neurological examination thereby decreasing the per ticket assessment, and
- Established an automated system to track commission revenues and expenditures.

ISSUE #2 THE COMMISSION RECEIVES A PORTION OF ITS FUNDING SOURCE FROM THE GENERAL FUND (\$94,957 IN FY 1994-95, AND \$50,870 IN FY 1993-94). HOWEVER, THE COMMISSION IS PROPOSING LEGISLATION AIMED AT MAKING IT FISCALLY SELF-SUFFICIENT. (IN 1995, THE COMMISSION SPONSORED LEGISLATION SB 1288 TO ASSESS A FEE ONLY ON THE OUT-OF-STATE PROMOTER'S SHARE OF THE BOXING PAY-PER-VIEW REVENUES GENERATED IN THIS STATE.)

The Commission still relies on the General Fund for a portion of its funding source (FY 1995-96 = \$20,208, FY 1996-97 = \$20,338, and FY 1997-98 = \$23,248).

The 1995 legislation, SB 1288, did not pass. In 1998, the Commission began the regulatory process to address the pay-per-view issue. The regulations were meant to define the term closed circuit telecast as stated in Business and Professions Code Section 18850. In 1998, the Commission withdrew the proposed regulations on the advice of the Agency Secretary because the administration viewed this as a new tax rather than an expansion of a definition.

In June of 1997, the Commission attempted to collect a 5% pay-per-view tax on the Holyfield vs. Tyson bout. The Commission was subsequently sued by the United States Satellite Broadcasting Company (USSB) on the grounds that B&PC 18830 was a violation of free speech. In March 1999 a United States District Judge agreed with USSB and enjoined the Commission from enforcing B&PC 18830. The Commission is currently faced with the payment of approximately \$140,000 in attorney fees to USSB.

ISSUE #3 THERE IS CURRENTLY NO OFFICIAL RECIPROCITY OF RECORDS WITH NEIGHBORING STATES CONCERNING BOXING AND FULL-CONTACT MARTIAL ARTS EVENTS. THIS COULD PUT BOXERS AND MARTIAL ARTS FIGHTERS AT RISK WITHOUT KNOWLEDGE OF INJURIES OR POSSIBLE VIOLATIONS INCURRED IN FIGHTS OUTSIDE THIS STATE.

This Athletic Commission does have an official reciprocity with all other states that have athletic commissions and numerous countries. Because of the nature of the sport and the transient nature of the boxers and full-contact martial arts fighters, it is imperative that all athletic commissions know the status of a boxer (i.e. are they on suspension for medical/knockout/disciplinary reasons, what is their win-loss record, what is their ability level, etc).

Since the implementation of the Federal Boxing Act of 1996, all boxers must have a Federal Identification Card on their person prior to being permitted to fight.

There is also a national depository for the ring records of all boxers.

This Commission will accept physical and neurological examinations performed in other states if they are furnished on commission approved forms. This Commission will also accept HIV/HBV blood work from other states if it is performed by a certified lab.

ISSUE #4 IT DOES NOT APPEAR NECESSARY FOR THE COMMISSION TO LICENSE OR REGULATE TICKET TAKERS, ANNOUNCERS, TICKET SELLERS, BOX OFFICE EMPLOYEES, OR DOOR PERSONS.

The Athletic Commission no longer licenses these persons.

ISSUE #5 THE COMMISSION HAS NO TESTING REQUIREMENTS FOR HBV/HIV

Effective 1996, the Commission began testing for HIV/HBV as a condition of licensure (B&PC 18712).

ISSUE #6 THE COMMISSION HAS NOT ESTABLISHED A FORMALIZED TRACKING SYSTEM FOR COMPLAINT HANDLING AND PROCESSING.

The Athletic Commission does maintain a formalized tracking system for complaints of a contractual nature. These are formal complaints lodged by boxers or managers in regard to boxer/manager contracts. These complaints result in mediation by commission staff or binding arbitration by staff in conjunction with the Attorney General's office.

This is no formal tracking system for written complaints or complaints by telephone as the majority of these complaints involve bout decisions or non-jurisdictional issues such as martial arts schools.

Commission staff will immediately implement a tracking system for these types of complaints. However, it should be noted that all complaints received are responded to.

ISSUE #7 THE COMMISSION HAS NOT GATHERED AND ANALYZED COMPARATIVE DATA FROM OTHER ATHLETIC COMMISSIONS IN OTHER STATES TO IDENTIFY ADDITIONAL POSSIBILITIES FOR IMPROVING STANDARDS AND ITS REGULATORY STRUCTURE.

Through membership with the Association of Boxing Commissions, and direct interaction with numerous other athletic commissions, this Commission is familiar with the standards and requirements of other commissions.

The California State Athletic Commission has the strongest rules and regulations and it would compromise our goals to apply standards set by other commissions. There is one area where this commission lacks authority and that is pregnancy testing for female boxers and martial arts fighters. While this is the only commission that requires neurological testing, it is one of the few commissions, which does not test for pregnancy prior to a bout.

ISSUE #8	RECENT STUDIES OF DEATHS FROM INJURIES THAT HAVE OCCURRED IN THE BOXING RING PROVIDE BETTER INFORMATION ABOUT WHEN OFFICIALS SHOULD STOP A FIGHT.
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All California ring officials are required by statute (B&PC 18731) to attend clinics two times each year. These clinics include, in addition to other topics, the subjects of the rules of the commission, the recognition and diagnosis of serious or life-threatening boxing-related and neurological injuries and disorders, and the mechanics of refereeing a bout.

ISSUE #9	IT IS UNCLEAR WHETHER THE COMMISSION HAS AUTHORITY TO DISCIPLINE LICENSEES WHO PARTICIPATE IN CONTESTS ON TRIBAL LANDS. HOWEVER, THE COMMISSION IS INVOLVED IN LITIGATION TO SETTLE THIS DISPUTE.
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The Federal Boxing Act has resolved this issue. All state athletic commissions have the authority to supervise professional boxing events on tribal lands if that particular tribe does not have a tribal athletic commission. If a tribe has created an athletic commission, it is at their discretion whether or not to permit a state athletic commission to supervise an event. There is currently one tribe in California that has established an athletic commission. However, this tribe allows the California State Athletic Commission to supervise boxing events on their land. Even though the California Commission supervises events on tribal land, it is not authorized to collect applicable gate taxes or ticket assessments for the pension and neurological programs.

**ISSUE #10 MOST OF THE COMMISSION’S LEGISLATIVE EFFORTS HAVE BEEN
DIRECTED TOWARD MAKING IT MORE FISCALLY SELF-
SUFFICIENT.**

The Commission suffered a major defeat in its effort to be fiscally self-sufficient when a judge ruled that Business and Professions Code Section 18830 was unconstitutional and a violation of free speech. This is the statute which addresses taxing closed circuit and pay-per-view boxing events.

PART 3.

California State Athletic Commission

BACKGROUND PAPER FOR 1999 PUBLIC HEARING

**Identified Issues, Background Concerning Issues,
Staff Recommendations, and Questions for the Board**

PRIOR SUNSET REVIEW: The Athletic Commission was last reviewed by the Joint Legislative Sunset Review Committee (JLSRC) four years ago (1995-96). The JLSRC and the Administration recommended extending the existence of this Commission for only four more years because of some unresolved issues, and areas of concern, pertaining to the regulation of boxing and martial arts. For example, the JLSRC noted that: (1) the Professional Boxer's Pension Plan may be in jeopardy; (2) the Commission continues to receive a portion of its funding from the General Fund; (3) there appeared to be no official reciprocity with other states to assure the Commission had knowledge of prior injuries or violations; (4) the Commission had no testing requirements for HIV; (5) there was no formalized tracking system for complaint handling and processing; (6) there did not appear to be any standards or training of officials for determining when a fight should be stopped; and, (7) it was unclear what authority the Commission had over boxing matches on Native American lands.

The JLSRC also reviewed whether the licensing and regulation of boxing events and martial arts fights should continue, and found that: (1) there was overwhelming evidence that the unregulated practice of professional and amateur boxing and full contact martial arts could endanger the health, safety and welfare of the licensee (competitor), but unlike other consumer boards, the legal mandate of this Commission was to protect the competitor not the consumer who participates in or views these events; and, (2) there were no other organizations which exist to protect the boxer or martial arts fighter.

The following are unresolved issues pertaining to this Commission since its review in 1995-96, and new areas of concern for the JLSRC, along with background information concerning the particular issue. Where necessary, the staff of the JLSRC have made preliminary recommendations for members and Department of Consumer Affairs (DCA) to consider. There are also questions that staff has prepared concerning the particular issue. The Commission was provided with these questions and should address each one.

CURRENT SUNSET REVIEW ISSUES:

ISSUE #1. WHAT IS THE COMMISSION DOING TO PROTECT THE SAFETY AND HEALTH OF BOXERS (BOXERS) AND MARTIAL ART FIGHTERS (FIGHTERS)?

BACKGROUND: The California State Athletic Commission was created by initiative by a vote of the electorate in 1924. The initiative was the result of public concern regarding: (1) the number of boxer injuries and deaths from injuries inflicted in the ring, and (2) the increasing involvement of unethical persons in promoting and conducting boxing events. Prior to the Commission, no governmental agency regulated the sport of boxing in California. Today, the Commission regulates professional and amateur boxing and full contact martial arts throughout the state by licensing all parties involved in boxing and full contact martial arts shows, and maintaining full control over the administration of each show. The purpose of this regulatory process is to protect the health and safety of the athletes and ensure that bouts are fair and competitive.

There are a number of statutory requirements in the Boxing Act which reflect health and safety concerns for the boxer/fighter. Pursuant to Sections 18645, 18714 and 18725, the Commission and its Advisory Commission on Medical and Safety Standards shall study and recommend medical and safety standards for boxers and fighters. Pursuant to Section 18654 of the Business and Professions Code, a training gymnasium must report to the Commission an injury or knockout of a boxer or fighter. Pursuant to Section 18711, each applicant for a license as a professional boxer shall undergo a neurological examination, and the physician or surgeon who performs this examination shall recommend to the Commission whether the professional boxer should be licensed in California or not. Pursuant to Section 18712, the applicant for licensure shall be tested for HIV/HBV. Pursuant to Section 18706, a physician shall perform a medical examination one hour before a match or event to assure that the boxer/fighter is in the appropriate physical condition to participate in the match or event. A report of this medical examination shall be filed with the Commission not later than 24 hours after the termination of the contest or match.

The Commission indicated in its sunset review report to the JLSRC, that a new area of martial arts fighting is evolving and is known as “mixed martial arts” or “submission fighting.” These events are currently illegal and many of them have gone underground to avoid commission intervention. The Commission’s Martial Arts Advisory Committee has met with various mixed martial arts promoters and an initial set of regulations has been drafted.

It is unclear from the information provided to the JLSRC, what safety standards have been established by the Commission to protect the health and safety of boxers/fighters, and what action the Commission has taken based on violations of safety standards or reports from physicians or training gymnasiums. It is also unknown what new safety standards will be established for those involved in “mixed martial arts” or “submission fighting,” and what action the Commission is taking regarding this current illegal activity. The Commission did indicate that 57 applications were denied in FY 1998/99, and that it suspended 253 licenses for the same

year. It also showed that it issued 34 citations with fines in the same year, and collected \$12,518. It is unknown what portion of these may be attributable to safety violations, whether they are based on reports from physicians or training gymnasiums, or may be based on other violations of the Boxing Act.

QUESTION #1: What safety standards have been established by the Commission and its Medical and Safety Standards Advisory Committee and Martial Arts Advisory Committee? Has the Commission clarified standards as to when a fight should be stopped? Provide for each year over the past four years: (1) the number of fines based on violation of safety standards; (2) the number of reported knockouts or injuries of professional boxers (and what action the Commission has taken pursuant to these reports); (3) the number of denials, suspensions or revocations of licenses based on neurosurgeons recommendations; and, (4) the number of disciplinary actions based on violations of safety standards. What other steps is the Commission taking to protect the safety and health of professional and amateur boxers and professional and amateur martial art fighters?

ISSUE #2. STUDENT ATHLETES FROM SCHOOLS, COLLEGES AND UNIVERSITIES MAY BE EXPERIENCING THE SAME TYPE OF NEUROLOGICAL DAMAGE AS BOXERS/FIGHTERS AND APPROPRIATE OVERSIGHT MAY BE NECESSARY.

BACKGROUND: There appears to be an increase in neurological type injuries to athletes, both in the sports regulated by the Commission, and those in which the Commission has no authority. In a 1997 report by the National Collegiate Athletic Association (NCAA), it stated that “nine of every 10 head injuries in football are reported as concussions, and that this was the highest recorded in the sport since 1986. (At this time, staff has not been able to obtain any information related to the extent of head injuries for California high school athletes.) Although this issue is not related to the Commissions responsibility or jurisdiction, it is of a serious enough nature to be considered by the JLSRC, since the Commission has dealt directly with these types of injuries and has established standards for the protection of the athletes it regulates.

Pursuant to Section 18655 of the Business and Professions Code, the Athletic Commission has no jurisdiction over any boxer/fighter who is a bona fide student regularly enrolled in a college, university, or high school. The NCAA, which is a voluntary association of more than 1,200 institutions, primarily regulates in the area of college and university sports. The NCAA will legislate, through bylaws or resolutions, particular rules regarding the administration of intercollegiate activities. However, in the area of sports injuries, the NCAA leaves responsibility for establishing any rules and safety standards to those of the individual institution. As stated by the NCAA, “its is the responsibility of each member institution to protect the health of and provide a safe environment for each of its participating student-athletes.” The NCAA does not believe it can legislate rules to prevent injuries to athletes, and states that “participation in sports requires an acceptance of risk of injury, and that student-athletes rightfully assume that those who are responsible for the conduct of sport have taken reasonable precautions to minimize the risk of significant injury.” It states that the athletic program, via the athletics administrator, should be responsible for providing a safe environment, and that the team physician has the final

responsibility when a student-athlete is removed or withheld from participation due to an injury, an illness or pregnancy, and when they may return to the sports activity.

The NCAA has a Committee on Competitive Safeguards and Medical Aspects of Sports which issues each fall a NCAA Sports Medicine Handbook and sends it to all member institutions and their athletic departments. This Handbook is advisory only. It also has a “Injury Surveillance System” to provide current data on injury trends in intercollegiate athletics. It collects this information yearly from a sample of NCAA member institutions.

High school sports are generally governed by the California Interscholastic Federation (CIF). This is a voluntary organization consisting of school and school related personnel with responsibility, generally, for administering interscholastic athletic activities in secondary schools. There are broad policies that the CIF and the Department of Education are to implement concerning interscholastic activities within California. The Department assures that the CIF is in conformance with current state or federal law. However, the Department does not have authority to determine the specific policy that a school district or the federation must adopt in order to comply with state and federal laws. Each school district governing board has general responsibility for all aspects of their interscholastic program, but they usually act in conjunction with CIF to establish uniform policies and rules for athletic programs. Like the NCAA, it does not appear as if there are rules pertaining to sports injuries. It appears as if any rules and safety standards are left up to the discretion of the individual school district. The CIF provides information on head and neck injuries, but this is advisory only. It also provides a list of the “Ten Commandments of an Injured Athlete.” (It should be noted that CIF does not recognize boxing as a sport for secondary schools.)

A recent bill was passed, AB 2741 (Chap.744, Stats.1998), that establishes a California High School Coaching Education and Training Program. It is intended to provide coaches the knowledge and skills to manage a safe high school athletic program for California students. This program seems to be in alignment with Title 5, California Code of Regulations, Section 559 which requires local school boards to certify by April 1 of each year the “temporary” coaches are qualified in certain competency areas, including “care and prevention of athletic injuries.” It does not appear, however, as if the prevention of athletic injuries is mentioned within this new program. The new law only specifies that coaches shall receive training and education on sport physiology that includes “fitness for the sport.”

It is unknown whether more needs to be done to protect student athletes and to provide better oversight of their health and safety, especially as it concerns the increase in related head injuries. The JLSRC has invited a noted neurosurgeon, Dr. VanBuren Lemons, to provide information to the JLSRC pertaining to this issue.

QUESTION #2: *Are student athletes experiencing the same type of neurological damage as boxers/fighters, what is the extent of the problem, and should similar protections be provided to student athletes as are provided to boxers/fighters?*

ISSUE #3. SHOULD PREGNANCY TESTING OF FEMALE BOXERS/FIGHTERS BE REQUIRED AND UNDER WHAT CONDITIONS?

BACKGROUND: One of the most controversial issues facing the Commission is the pregnancy testing of boxers and martial arts fighters. As the popularity of female boxing increases, there is a growing concern about the consequences that may arise from female athletes fighting while pregnant. Currently, it is not clear whether the Commission has authority to require pregnancy testing of female athletes, and California is one of the few states that does not mandate this type of medical examination. The Commission has attempted several times, without success, to initiate legislation to implement testing prior to each bout. According to the Commission, a survey of California female boxers and martial arts fighters indicates that a majority agree that testing should be required.

Supporters of mandatory testing argue that it is only a matter of time before a tragedy occurs and the state is faced with the liability for the injury or death of a female athlete's child. A signed waiver or affidavit may suffice in releasing the state's liability. However, the issue of parental consent is a complicating factor since there are 16 and 17 year-old females fighting as amateur martial arts fighters.

Conversely, those on the other side of the issue argue that an individual's right to privacy may outweigh the rights of an unborn child. There is some concern that this type of pregnancy information could be used to discriminate against female athletes in other settings, such as the workplace.

QUESTION #3: *Has the Commission been attempting to seek authorization for pregnancy testing of female boxers, professional or amateur, through the legislative process? What attempts have been made? Why doesn't the Commission have authority pursuant to Section 18710 of the Business and Professions Code? Has the Commission determined or considered any of the following:*

- a) Whether pregnancy will automatically disqualify a woman from licensure?*
- b) Whether this "finding" could be done by a boxer disclosure procedure?*
- c) Whether it will be the examining physician's duty to determine the health and physical condition of the prospective boxer before she enters any sanctioned fight or match?*
- d) Whether liability will rest with the promoter, boxer, and examining physician – not the Commission?*
- e) How to address privacy concerns and how to keep pregnancy information confidential?*

ISSUE #4. IT IS UNCLEAR WHETHER THE COMMISSION HAS THE AUTHORITY TO DEAL WITH MOST OF THE COMPLAINTS IT RECEIVES FROM CONSUMERS AND COMMISSION LICENSEES.

BACKGROUND: The Commission receives complaints from both consumer and its licensees. Complaints may be dismissed due to lack of cause or for non-jurisdictional reasons. Most non-jurisdictional complaints involve martial arts studios that are not subject to regulation. The majority of complaints from licensees are in regard to boxer/manager contract disputes. There

has also been an increase in the number of complaints against illegal “mixed martial arts” or “submission fighting” events, which currently are not subject to Commission regulation.

QUESTION #4: *What are the types and majority of complaints the Commission receives from consumers and licensees, and what jurisdiction does the Commission have over these complaints?*

ISSUE #5. IT IS UNCLEAR WHAT PROCESS THE COMMISSION USES TO REVIEW AND INVESTIGATE APPLICANTS FOR LICENSURE WHO ARE FROM OUT-OF-STATE OR FROM FOREIGN COUNTRIES.

BACKGROUND: Most professional boxers and martial arts fighters compete throughout the nation in various states. In addition, the Commission reports that a large portion of its licensees come from foreign countries. Thus, it is critical that the Commission has thorough background information on all its applicants, and know the status of a boxer (i.e., are they on suspension for medical/knockout/disciplinary reasons, what is their win-loss record, what is their ability level, etc.). Since the implementation of the Federal Boxing Act of 1996, all boxers must have a Federal Identification Card on their person prior to being permitted to fight. There is also a national depository for ring records of all boxers. The Commission will accept physical and neurological examinations performed in other states if they are furnished on approved forms. The Commission will also accept HIV/HBV blood work form other states if performed by a certified lab.

It is unclear what process the Commission uses in approving an applicant from out-of-state or from another country. Does the Commission have access to records established pursuant to the issuance of a Federal Identification Card if the card is in question? What information is provided within the “ring records” of the national depository? Does the Commission perform fingerprint or FBI check on every applicant pursuant to Section 18868 of the Business and Professions Code?

QUESTION #5: *How does the Commission review and investigate all applications filed with the Commission? What does the Commission do to assure that boxers/fighters from other states and countries have not been suspended for cause and meet the requirements and standards of the Commission?*

ISSUE #6. IT IS UNCLEAR WHETHER CURRENT INSPECTORS OF THE COMMISSION ARE ABLE TO ASSURE ADEQUATE ENFORCEMENT OF THE BOXING ACT.

BACKGROUND: There is some question as to whether Commission inspectors have the authority to fully enforce the Boxing Act. Violations of the Act may involve criminal activity and may include other activities or investigations that may result in criminal prosecution in which investigators with peace officer status may be appropriate. Some of the cases of the

Athletic Commission may also involve complex issues where experienced investigative techniques would be required.

All other boards under the Department of Consumer Affairs have access to investigators with peace officer status. Most boards use the Division of Investigation within the Department, while others may have their own peace officer investigators. Peace officer status includes the ability to file criminal actions, make felony and misdemeanor arrest with and without warrants, participate with local law enforcement in undercover and surveillance operations, obtain and serve search warrants, issue misdemeanor citations (if authority is granted), serve civil subpoenas, obtain and serve temporary restraining orders, and appear as witnesses in civil, criminal and administrative actions.

It is unclear what experience or background the Commission's inspectors may have and how they deal with what may be criminal activity or misdemeanor violations of the Act.

QUESTION #6: *Are all boxing/fighting matches and events under the complete control of the Commission, and is the Commission and its inspectors able to collect all appropriate gate taxes and ensure that money is deposited safely? What is the background of inspectors used by the Commission? Do they have peace officer status? Are they formerly connected with the boxing/fighting profession? Is the Department's Division of Investigation used to assist the Commission's inspectors, especially if there is a potential for criminal action?*

ISSUE #7. THE COMMISSION'S RELIANCE ON THE GENERAL FUND MAY BE GROWING.

BACKGROUND: Unlike other Department programs that are completely sustained by licensing fees, the Commission is the only professional licensing agency to receive General Fund support. The Commission is unable to support itself because of an unstable funding base. There are a number of factors contributing to the Commission's inability to achieve self-sufficiency. First, licensees are allowed to wait to renew their licenses until a fight is scheduled, thus renewal revenues fluctuate considerably based on the annual variability of the number of events held in California. Second, the Commission's pension plan and neurological examination program appear to be in jeopardy due to declining contributions. This is due in large part to the movement of fights to Indian reservations, which recently were exempted from state regulation by the federal Professional Boxing Safety Act of 1996. Recent data suggest that up to half of California boxing events are being held on tribal lands. The associated loss of revenue to the pension and neurological examination programs present a serious funding challenge to the Commission. Third, the Commission has been enjoined from collecting a recently adopted 5 percent tax on pay-per-view boxing broadcasts. The loss of up to \$800,000 in potential annual revenues from the elimination of this tax has seriously hindered the Commission's ability to reduce its reliance on the General Fund.

QUESTION #7: *Are there still issues pertaining to the Commission's ability to raise revenue for the expense of its current programs? Are there other options available to the Commission to make it fiscally self-sufficient rather than relying on the General Fund? If the Commission*

needs to rely on the General Fund, then should all revenues be deposited in the General Fund rather than depositing some revenues in two separate special funds (the Neurological Program fund and Pension Plan fund).

ISSUE #8. THE SOURCE OF FUNDING FOR THE REQUIRED NEUROLOGICAL TESTING OF BOXERS MAY BE IN JEOPARDY.

BACKGROUND: Business and Professions Code Section 18711 requires neurological examinations as a condition of licensure and authorizes an assessment on professional boxing events to fund this program. The Commission currently charges an assessment of 60 cents per-ticket sold and complimentary tickets. Despite a recent restructuring of the testing requirement to reduce testing costs (from a per-ticket assessment of \$1.25 to 60 cents), the program is facing funding problems. As mentioned above, the source of funding for the required neurological testing of boxers is eroding, as is the funding for the Professional Boxers' Pension Plan, due to the popularity of events on tribal lands.

Despite the eroding funding base for this mandated program, it is the Commission's position that a further increase in the assessment would put some boxing promoters out of business and revenues would continue to decline. Nonetheless, if this decline in revenues continues, the Commission will have to either increase the per-ticket assessment or identify alternative funding sources (such as assessing boxers for a portion of the examination costs) for the neurological examination program.

QUESTION #8: *Why is the source of this funding eroding and what changes has the Commission made, or anticipates it will have to make, to deal with the reduced funding of this program? Are there any other issues pertaining to the Commission's neurological testing and ringside physicians programs?*

ISSUE #9. THE SOURCE OF FUNDING FOR THE REQUIRED PENSION PLAN FOR BOXERS MAY BE IN JEOPARDY.

BACKGROUND: Pursuant to Business and Professions Code Section 18881, the Commission is required to administer a pension plan for boxers who engage in boxing contests in this state. Established in 1981, the pension program originally was supported by an assessment on professional boxing promoters based upon tickets sold and complimentary tickets. In 1996, the Professional Boxers' Pension Plan was changed from a "defined benefit" plan to a "defined contribution" plan. The plan is no longer funded by contributions from the boxers, managers and promoters. Funding is now based on a per-ticket assessment (both tickets sold and complimentary tickets) for each professional boxing event. The per-ticket assessment was established at 46 cents per-ticket but subsequently increased to 88 cents per-ticket.

Like other Commission programs, funding for the pension plan is also in jeopardy. Specifically, the per-ticket assessment method of funding is not adequate as boxing events are now being held on Indian reservations. While federal law does allow the Commission to supervise these events, it cannot collect any assessment on tickets for either the boxers' pension plan or the neurological

examination program. The Commission has negotiated with the tribes to provide supervisory services for boxing events held on tribal lands at a flat fee of \$1,500 per event. Apparently, the revenues generated from this flat fee are insufficient to fund the Commission's current level of activity, or to accommodate any growth in its operations. Another factor in the receding funds, is related to pension contribution refunds to eligible professional boxers. If professional boxers meet certain criteria they are eligible for a cash refund of contributions.

Clearly, the Commission is facing substantial budget issues. Without some sort of revenue realignment, the Commission's ability to carry out its mission of protecting the health and safety of boxers/fighters, caring for retired boxers, and ensuring that bouts are fair and competitive, is in serious jeopardy.

QUESTION #9: What has the Commission done to improve the viability of the Professional Boxer's Pension Plan, and what would the Commission recommend to assure solvency of the plan in the future? How many boxers/fighters are currently receiving any benefits, and what monthly or lump sum payments have been made to these respective "retirees?"

ISSUE #10. SHOULD THE COMMISSION CONTINUE ITS JURISDICTION OVER PERSONS AND ENTITIES CURRENTLY LICENSED BY THE COMMISSION? ARE THERE NEW REGULATORY JURISDICTIONS THAT THE COMMISSION IS CONSIDERING?

BACKGROUND: The Commission regulates some 14 categories of boxing professionals from professional boxers to timekeepers. In its previous review of the Commission, the JLSRC recommended that the Commission should analyze the need for all current licensing categories. Specifically, the Commission was asked to evaluate the advantages and disadvantages of eliminating licensing for ticket sellers, ticket takers, announcers, box office employees, and door persons. The Commission has deregulated some of these license categories (ticket seller, ticket taker, box office employee, and door person), but there may be more opportunity for further deregulation of non-essential personnel.

Conversely, a new form of full-contact martial arts has evolved, which is known as "mixed martial arts" or "submission fighting". These events currently are illegal and operate underground to avoid Commission scrutiny. The Commission is in the process of drafting regulations to bring these events under its purview.

QUESTION #10: Are there any persons or entities that the Commission currently licenses which should no longer be regulated? Does the Commission still have any jurisdiction over wrestling matches? Does the Commission believe there are new regulatory jurisdictions in which they should be involved based on protecting particular athletes rather than on revenue merits only?

ISSUE #11. IT IS UNCLEAR WHAT JURISDICTION THE COMMISSION HAS OVER BOXING AND FIGHTING EVENTS ON TRIBAL LANDS, AND WHETHER IT IS BEING PROPERLY REIMBURSED FOR CURRENT REGULATORY ACTIVITIES.

BACKGROUND: As discussed above, the Professional Boxing Safety Act of 1996, preempts state regulation of professional boxing on tribal lands. Because of this statute and the lucrative fees that tribes are paying to attract these events, many promoters are holding their fights on Indian reservations. The Center for Public Interest Law reports that from January 1 through March 26, seven of the thirteen boxing events held in California were held on tribal lands. Former Commission staff negotiated a flat fee of \$1,500 per event for supervision of events on tribal lands. However, this fee does not include an assessment for either the pension plan or the Commission's neurological fund that finances required neurological tests for all licensed boxers.

Boxing on tribal lands not only presents a funding challenge to the Commission, but also a regulatory one. Clearly, the Commission needs to resolve how it will provide oversight for these events. Boxing on Indian reservations poses some of the same challenges to state regulatory authority that Indian gaming does, and the Commission may need to participate in high level negotiations to establish a comprehensive regulatory scheme in this area.

QUESTION #11: *Should the Commission pursue any regulatory or supervisory role at boxing events held on Native American lands in California, even if there are no formal agreements with tribal councils and insufficient funding to pursue those regulatory functions? What current activities is the Commission involved in on tribal lands? Are all of these activities considered within the jurisdiction of the Commission, and if not, does this create a legal liability problem for the Commission? Is General Fund money being used to support these current activities? Are all of these activities being supported by reimbursements from tribal councils, and if not, doesn't this create a fiscal liability problem for the Commission?*

ISSUE #12. SHOULD THE COMMISSION BE CONTINUED, OR ITS ROLE BE LIMITED TO AN ADVISORY BODY AND THE REMAINING FUNCTIONS BE TRANSFERRED TO THE DEPARTMENT OF CONSUMER AFFAIRS?

BACKGROUND: During the review of the Commission in 1995/96, the Commission was not subject to a sunset date. Initially, it was unclear whether the Commission could be subject to sunset, since it was created by initiative act. However, based on an opinion from Legislative Council, a sunset date of the Commission was included in legislation that passed in 1996. This sunset date is similar to other boards that are being reviewed by the JLSRC during this year.

During the prior review, the JLSRC and the Administration concurred that the Commission should continue as a separate agency to enforce the provisions of the Boxers Act. Inherent in that conclusion was the belief that the Commission was performing its administrative responsibilities better than any reasonable alternative, and that transfer of the program to be

administered directly by the Department of Consumer Affairs, without an appointed Commission, was not warranted.

However, the JLSRC did identify a number of issues and problem areas for the Commission to deal with in its prior review, and accordingly made recommendations for the Commission to implement. The Commission has made attempts to deal with some of these issues, but there are still several issues that remain unresolved. Whether or not to continue with the Commission, rather than having the Department administer this program, would depend on how responsive members of the JLSRC believe the Commission has been to prior issues and concerns raised by this Committee, and how committed it will be to resolve current issues and problem areas identified in this paper. Of primary concern, is the confidence which members of the JLSRC have in the Commission to continue with the protection of boxers and martial arts fighters, or other related areas pertaining to boxing/fighting matches and events.

The Commission should summarize the efforts it has made to improve its overall effectiveness and efficiency to operate more in the interest of protecting boxers/fighters and ensuring that bouts are fair and competitive. It should also indicate its future commitment to resolve particular issues identified by this Committee.

QUESTION #12: *Why should this Commission be continued? Summarize what changes have been made to the current regulatory program since its last review to improve its overall effectiveness and efficiency so that it may operate more in the interest of protecting boxers/fighters and ensuring that bouts are fair and competitive.*

PART 4

California State Athletic Commission

BOARD'S RESPONSE TO ISSUES AND RECOMMENDATIONS FROM 1999/2000 SUNSET REVIEW

PRIOR SUNSET REVIEW: The Athletic Commission was last reviewed by the Joint Legislative Sunset Review Committee (JLSRC) four years ago (1995-96). The JLSRC and the Administration recommended extending the existence of this Commission for only four more years because of some unresolved issues, and areas of concern, pertaining to the regulation of boxing and martial arts. For example, the JLSRC noted that: (1) the Professional Boxer's Pension Plan may be jeopardy; (2) the Commission continues to receive a portion of its funding from the General Fund; (3) there appeared to be no official reciprocity with other states to assure the Commission had knowledge of prior injuries or violations; (4) the Commission had not testing requirements for HIV; (5) there was no formalized tracking system for complaint handling and processing; (6) there did not appear to be any standards or training of officials for determining when a fight should be stopped; and, (7) it was unclear what authority the Commission had over boxing matches on Native American lands.

The JLSRC also reviewed whether the licensing and regulation of boxing events and martial arts fights should continue, and found that: (1) there was overwhelming evidence that the unregulated practice of professional and amateur boxing and full contact martial arts could endanger the health, safety and welfare of the licensee (competitor), but unlike other consumer boards, the legal mandate of this Commission was to protect the competitor not the consumer who participates in or views these events; and, (2) there were no other organizations which exist to protect the boxer or martial arts fighter.

The following are unresolved issues pertaining to this Commission since its review in 1995-96, and new areas of concern for the JLSRC, along with background information concerning the particular issue. Where necessary, the staff of the JLSRC have made preliminary recommendations for members and Department of Consumer Affairs (DCA) to consider. There are also questions that staff has prepared concerning the particular issue. The Commission was provided with these questions and should address each one.

CURRENT SUNSET REVIEW ISSUES/QUESTIONS/ANSWERS:

ISSUE #1. WHAT IS THE COMMISSION DOING TO PROTECT THE SAFETY AND HEALTH OF BOXERS AND MARTIAL ART FIGHTERS?

BACKGROUND: The California State Athletic Commission was created by initiative by a vote of the electorate in 1924. The initiative was the result of public concern regarding: (1) the number of boxer injuries and deaths from injuries inflicted in the ring, and (2) the increasing involvement of unethical persons in promoting and conducting boxing events. Prior to the Commission, no governmental agency regulated the sport of boxing in California. Today, the Commission regulates professional and amateur boxing and full contact martial arts throughout the state by licensing all parties involved in boxing and full contact martial arts shows, and maintaining full control over the administration of each show. The purpose of this regulatory process is to protect the health and safety of the athletes and ensure that bouts are fair and competitive.

There are a number of statutory requirements in the Boxing Act which reflect health and safety concerns for the boxer/fighter. Pursuant to Sections 18645, 18714 and 18725, the Commission and its Advisory Commission on Medical and Safety Standards shall study and recommend medical and safety standards for boxers and fighters. Pursuant to Section 18654 of the Business and Professions Code, a training gymnasium must report to the Commission an injury or knockout of a boxer or fighter. Pursuant to Section 18711, each applicant for a license as a professional boxer shall undergo a neurological examination, and the physician or surgeon who performs this examination shall recommend to the Commission whether the professional boxer should be licensed in California or not. Pursuant to Section 18712, the applicant for licensure shall be tested for HIV/HBV. Pursuant to Section 18706, a physician shall perform a medical examination one hour before a match or event to assure that the boxer/fighter is in the appropriate physical condition to participate in the match or event. A report of this medical examination shall be filed with the Commission not later than 24 hours after the termination of the contest or match.

The Commission indicated in its sunset review report to the JLSRC, that a new area of martial arts fighting is evolving and is known as “mixed martial arts” or “submission fighting.” These events are currently illegal and many of them have gone underground to avoid commission intervention. The Commission’s Martial Arts Advisory Committee has met with various mixed martial arts promoters and an initial set of regulations has been drafted.

It is unclear from the information provided to the JLSRC, what safety standards have been established by the Commission to protect the health and safety of boxers/fighters, and what action the Commission has taken based on violations of safety standards or reports from physicians or training gymnasiums. It is also unknown what new safety standards will be established for those involved in “mixed martial arts” or “submission fighting,” and what action the Commission is taking regarding this current illegal activity. The Commission did indicate that 57 applications were denied in FY 1998/99, and that it suspended 253 licenses for the same year. It also showed that it issued 34 citations with fines in the same year, and collected \$12,518. It is unknown what portion of these may be attributable to safety violations, whether they are based on reports from physicians or training gymnasiums, or may be based on other violations of the Boxing Act.

QUESTION #1: *What safety standards have been established by the Commission and its Medical and Safety Standards Advisory Committee and Martial Arts Advisory Committee? Has the Commission clarified standards as to when a fight should be stopped? Provide for each year over the past four years what have been: (1) the number of fines based on violation of safety standards; (2) the number of reported knockouts or injuries of professional boxers (and what action the Commission has taken pursuant to these reports); (3) the number of denials, suspensions or revocations of licenses based on neurosurgeons recommendations; and, (4) the number of disciplinary actions based on violations of safety standards. What other steps is the Commission doing to protect the safety and health of professional and amateur boxers (boxers) and professional and amateur martial art fighters (fighters)?*

ANSWER # 1:

Safety Standards - Type of abdominal guard at the hipline.
- HIV/HBV testing within 30 days of licensure.
- Currently investigating soft contact lenses.
- Weighing day before fight to allow re-hydration

Standards to Stop Fights - Standards have not been developed because there are numerous situations in which a fight can be stopped. Multiple head blows may incapacitate one fighter but not another. The Commission relies on the experience, training and knowledge of our referees, and ringside physicians. Referees are trained at semi-annual clinics regarding neuro signs exhibited by a boxer.

- (1) Fines – Not all fines are safety standards – 30 /120 /18 /34
- (2) KO's – 285 / 512 /315 /253 not all are KO's some are for cuts/injuries and disciplinary actions. All boxers KO'd or injured are suspended for a minimum of 30-45 days.
- (3) Neurological Denials – 91 /56 /17 /0
- (4) Disciplinary Actions – 285 /512 /315 /253 combined with KO's and or injuries etc.
- (5) Other Efforts – The Commission approves each bout (600 boxing/ 1050 martial arts). Each opponent is scrutinized for ability – ring record- suspension status, etc. New applicants may be individually screened in sparring to gauge skill level. Suspensions automatically are given, and the Commission honors other state suspensions. The suspensions are listed in a bulletin along with the show results, which are distributed world wide. Federal ID for pro boxers is required.

ISSUE #2. STUDENT ATHLETES FROM SCHOOLS, COLLEGES AND UNIVERSITIES MAY BE EXPERIENCING THE SAME TYPE OF NEUROLOGICAL DAMAGE AS BOXERS/FIGHTERS AND APPROPRIATE OVERSIGHT MAY BE NECESSARY.

BACKGROUND: There appears to be an increase in neurological type injuries to athletes, both in the sports regulated by the Commission, and those in which the Commission has no authority. In a 1997 report by the National Collegiate Athletic Association (NCAA), it stated that “nine of every 10 head injuries in football are reported as concussions, and that this was the highest recorded in the sport since 1986. (At this time, staff has not been able to obtain any information

related to the extent of head injuries for California high school athletes.) Although this issue is not related to the Commission's responsibility or jurisdiction, it is of a serious enough nature to be considered by the JLSRC, since the Commission has dealt directly with these types of injuries and has established standards for the protection of the athletes it regulates.

Pursuant to Section 18655 of the Business and Professions Code, the Athletic Commission has no jurisdiction over any boxer/fighter who is a bona fide student regularly enrolled in a college, university, or high school. The NCAA, which is a voluntary association of more than 1,200 institutions, primarily regulates in the area of college and university sports. The NCAA will legislate, through bylaws or resolutions, particular rules regarding the administration of intercollegiate activities. However, in the area of sports injuries, the NCAA leaves responsibility for establishing any rules and safety standards to those of the individual institution. As stated by the NCAA, "it is the responsibility of each member institution to protect the health of and provide a safe environment for each of its participating student-athletes." The NCAA does not believe it can legislate rules to prevent injuries to athletes, and states that "participation in sports requires an acceptance of risk of injury, and that student-athletes rightfully assume that those who are responsible for the conduct of sport have taken reasonable precautions to minimize the risk of significant injury." It states that the athletic program, via the athletics administrator, should be responsible for providing a safe environment, and that the team physician has the final responsibility when a student-athlete is removed or withheld from participation due to an injury, an illness or pregnancy, and when they may return to the sports activity.

The NCAA has a Committee on Competitive Safeguards and Medical Aspects of Sports which issues each fall a NCAA Sports Medicine Handbook and sends it to all member institutions and their athletic departments. This Handbook is advisory only. It also has a "Injury Surveillance System" to provide current data on injury trends in intercollegiate athletics. It collects this information yearly from a sample of NCAA member institutions.

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A recent bill was passed, AB 2741 (Chap.744, Stats.1998), that establishes a California High School Coaching Education and Training Program. It is intended to provide coaches the

knowledge and skills to manage a safe high school athletic program for California students. This program seems to be in alignment with Title 5, California Code of Regulations, Section 559 which requires local school boards to certify by April 1 of each year the “temporary” coaches are qualified in certain competency areas, including “care and prevention of athletic injuries.” It does not appear, however, as if the prevention of athletic injuries is mentioned within this new program. The new law only specifies that coaches shall receive training and education on sport physiology that includes “fitness for the sport.”

It is unknown whether more needs to be done to protect student athletes and to provide better oversight of their health and safety, especially as it concerns the increase in related head injuries. The JLSRC has invited a noted neurosurgeon, Dr. VanBuren Lemons, to provide information to the JLSRC pertaining to this issue.

QUESTION #2: *Are student athletes experiencing the same type of neurological damage as boxers/fighters, what is the extent of the problem, and should similar protections be provided to student athletes as are provided to boxers/fighters?*

ANSWER # 2:

Dr. Van Lemons will address this issue.

ISSUE #3. SHOULD PREGNANCY TESTING OF FEMALE BOXERS/FIGHTERS BE REQUIRED AND UNDER WHAT CONDITIONS?

BACKGROUND: One of the most controversial issues facing the Commission is the pregnancy testing of boxers and martial arts fighters. As the popularity of female boxing increases, there is a growing concern about the consequences that may arise from female athletes fighting while pregnant. Currently, the Commission does not have the authority to require pregnancy testing of female athletes, and California is one of the few states that does not mandate it. The Commission has attempted several times, without success, to initiate legislation to implement testing prior to each bout. According to the Commission, a survey of California female boxers and martial arts fighters indicates that a majority agree that testing should be required.

Supporters of mandatory testing argue that it is only a matter of time before a tragedy occurs and the state is faced with the liability for the injury or death of a female athlete’s child. A signed waiver or affidavit may suffice in releasing the state’s liability. However, the issue of parental consent is a complicating factor since there are 16 and 17 year-old females fighting as amateur martial arts fighters.

Conversely, those on the other side of the issue argue that an individual’s right to privacy may outweigh the rights of an unborn child. There is some concern that this type of pregnancy information could be used to discriminate against female athletes in other settings, such as the workplace.

QUESTION #3: *Has the Commission been attempting to seek authorization for pregnancy testing of female boxers, professional or amateur, through the legislative process? What*

attempts have been made? Why doesn't the Commission have authority pursuant to Section 18710 of the Business and Professions Code? Has the Commission determined or considered any of the following:

- a) Whether pregnancy will automatically disqualify a woman from licensure?*
- b) Whether this "finding" could be done by a boxer disclosure procedure?*
- c) Whether it will be the examining physician's duty to determine the health and physical condition of the prospective boxer before she enters any sanctioned fight or match?*
- d) Whether liability will rest with the promoter, boxer, and examining physician – not the Commission?*
- e) How to address privacy concerns and how to keep pregnancy information confidential?*

ANSWER # 3:

The Commission has sought pregnancy testing through the legislature process to no avail. DCA will not support this legislation due to it being controversial in nature. Several years ago we attempted regulations via B&P Code 18710 – OAL rejected for lack of authority.

- (a) Pregnancy testing would not disqualify female boxers from being licensed; however, they could not fight if test result was positive.
- (b) The Commission would be more than pleased with a disclosure procedure but the 16 and 17 year old amateur martial arts fighters would need parental consent.
- (c) All boxers are given pre-fight physicals.
- (d) Liability could rest with any of the promoters, boxers, and examining physicians. However, the Commission has the final responsibility of bout approval.
- (e) The privacy concern and confidential information would be treated the same as HIV/HBV information. This information is kept under lock and key, and the information may not be released to anyone, including, other commissions. Outdated information is destroyed by shredding.

ISSUE #4. IT IS UNCLEAR WHETHER BOARD HAS AUTHORITY TO DEAL WITH MOST OF THE COMPLAINTS IT RECEIVES FROM CONSUMERS AND COMMISSION LICENSEES.

BACKGROUND: The Commission receives complaints from both consumer and its licensees. Complaints may be dismissed due to lack of cause or for non-jurisdictional reasons. Most non-jurisdictional complaints involve martial arts studios that are not subject to regulation. The majority of complaints are from licensees in regard to boxer/manager contract disputes. There has also been an increase in the number of complaints against illegal "mixed martial" arts or "submission fighting" events, which currently are not subject to Commission regulation.

QUESTION #4: *What are the types and majority of complaints the Commission receives from consumers and licensees, and what jurisdiction does the Commission have over these complaints?*

ANSWER #4:

- B&P Code 18640 gives the Commission total jurisdiction over all professional/amateur boxing and full-contact martial arts events in the state. This jurisdiction also provides that all licensees must abide by commission regulations.
- The majority of complaints are contractual disputes between boxers and managers. These disputes are settled by commission arbitration. All actions are final except that the propriety of such action is subject to review, upon questions, of law only, by the superior court. Only the superior court may reverse a decision.
- Most consumer complaints are regarding bout decisions, and bout decisions may only be changed if certain criteria is met. We also receive complaints regarding martial arts schools for which we have no jurisdiction over.
- As for illegal mixed martial arts events and submission fighting, the commissioners may adopt regulations to legalize these events. The Commission will review the draft regulation at the December 10, 1999 meeting.

ISSUE #5. IT IS UNCLEAR WHAT PROCESS THE COMMISSION USES TO REVIEW AND INVESTIGATE APPLICANTS FOR LICENSURE WHO ARE FROM OUT-OF-STATE OR FROM FOREIGN COUNTRIES.

BACKGROUND: Most professional boxers and martial arts fighters compete throughout the nation in various states. In addition, the Commission reports that a large portion of its licensees come from foreign countries. Thus, it is critical that the Commission has thorough background information on all its applicants, and know the status of a boxer (i.e., are they on suspension for medical/knockout/disciplinary reasons, what is their win-loss record, what is their ability level, etc.). Since the implementation of the Federal Boxing Act of 1996, all boxers must have a Federal Identification Card on their person prior to being permitted to fight. There is also a national depository for ring records of all boxers. The Commission will accept physical and neurological examinations performed in other states if they are furnished on approved forms. The Commission will also accept HIV/HBV blood work form other states if performed by a certified lab.

It is unclear what process the Commission uses in approving an applicant from out-of-state or from another country. Does the Commission have access to records established pursuant to the issuance of a Federal Identification Card if the card is in question? What information is provided within the “ring records” of the national depository? Does the Commission perform fingerprint or FBI check on every applicant pursuant to Section 18868 of the Business and Professions Code?

QUESTION #5: *How does the Commission review and investigate all applications filed with the Commission? What does the Commission do to assure that boxers/fighters from other states*

and countries have not been suspended for cause and meet the requirements and standards of the Commission?

ANSWER # 5:

All original applicants for promoter, manager, matchmaker and assistant matchmaker must submit classifiable fingerprints. All professional boxers must show a Federal Identification card which is issued by all United States Athletic Commissions. Resident boxers must obtain this card from their state of residence commission. Foreign boxers may obtain it from any U.S. state commission.

There is a national registry for professional boxers indicating win-loss record/suspension status. All state commissions are required by Federal law to report results/suspensions to this registry within 48 hours of an event. Foreign boxers must have a certifiable copy of their win-loss record and suspension status from their home country commission. The bottom line is that if a boxer's record or suspension status is not known, then he/she cannot fight in California.

The Commission commands the utmost respect from other commissions in other states, and we maintain an open line of communication with these commissions as well as with other countries, namely, Mexico and Canada.

ISSUE #6. IT IS UNCLEAR WHETHER CURRENT INSPECTORS OF THE COMMISSION ARE ABLE TO ASSURE ADEQUATE ENFORCEMENT OF THE BOXING ACT.

BACKGROUND: There is some question as to whether Commission inspectors have the authority to fully enforce the Boxing Act. Violations of the Act may involve criminal activity and may include other activities or investigations that may result in criminal prosecution in which investigators with peace officer status may be appropriate. Some of the cases of the Athletic Commission may also involve complex issues where experienced investigative techniques would be required.

All other boards under the Department of Consumer Affairs have access to investigators with peace officer status. Most boards use the Division of Investigation within the Department, while others may have their own peace officer investigators. Peace officer status includes the ability to file criminal actions, make felony and misdemeanor arrest with and without warrants, participate with local law enforcement in undercover and surveillance operations, obtain and serve search warrants, issue misdemeanor citations (if authority is granted), serve civil subpoenas, obtain and serve temporary restraining orders, and appear as witnesses in civil, criminal and administrative actions.

It is unclear what experience or background the Commission's inspectors may have and how they deal with what may be criminal activity or misdemeanor violations of the Act.

QUESTION #6: *Are all boxing/fighting matches and events under the complete control of the Commission, and is the Commission and its inspectors able to collect all appropriate gate taxes*

and ensure that money is deposited safely. What is the background of inspectors used by the Commission? Do they have peace officer status? Are they formerly connected with the boxing/fighting profession?

Is the Department's Division of Investigation used to assist the Commission's inspectors, especially if there is a potential for criminal action?

ANSWER # 6:

All events are under complete control of CSAC (B&P Code 18640) and all appropriate taxes are collected (except on tribal land). All promoters are bonded, and only money orders or cashiers checks made payable to CSAC are accepted. Inspectors are not peace officers – may hold college degrees – CPA's – law enforcement personnel, and some are attorney's etc. They are not formally connected with the boxing profession but several are former boxers. The Commission currently has an M.O.U. with D of I for their services. Their services are only used in a case with potential criminal action. There have been such cases in the past. One case is in process and has been turned over to the AG's office. Currently it is still active.

ISSUE #7. THE COMMISSION'S RELIANCE ON THE GENERAL FUND MAY BE GROWING.

BACKGROUND: Unlike other DCA programs that are completely sustained by licensing fees, the Commission is the only professional licensing agency to receive General Fund support. The Commission is unable to support itself because of an unstable funding base. There are a number of factors contributing to the Commission's inability to achieve self-sufficiency. First, licensees are allowed to wait to renew their licenses until a fight is scheduled, thus renewal revenues fluctuate considerably based on the annual variability of the number of events held in California. Second, the Commission's pension plan and neurological examination program appear to be in jeopardy due to declining contributions. This is due in large part to the movement of fights to Indian reservations, which recently were exempted from state regulation by the federal Professional Boxing Safety Act of 1996. Recent data suggest that up to half of California boxing events are being held on tribal lands. The associated loss of revenue to the pension and neurological examination programs present a serious funding challenge to the Commission. Third, the Commission has been enjoined from collecting a recently adopted 5 percent tax on pay-per-view boxing broadcasts. The loss of up to \$800,000 in potential annual revenues from the elimination of this tax has seriously hindered the Commission's ability to reduce its reliance on the General Fund.

QUESTION #7: *Are there still issues pertaining to the Commission's ability to raise revenue for the expense of its current programs? Any other options available to the Commission to make it more fiscally self-sufficient rather than relying on the General Fund? If the Commission needs to rely on the General Fund, then should all revenues be deposited in the General Fund rather than depositing some revenues in two separate special funds (the Neurological Program fund and Pension Plan fund).*

ANSWER #7:

- While the CSAC is a General Fund Agency all revenues (license fees – gate taxes – television taxes etc.! with the exception of neurological assessments) are deposited into the General Fund. The Commission relies on the GF for approximately 4% or \$40,000 of its budget.
- Based on a 1992 audit, the Commission now deposits pension assessments into the Surplus Money Investment Fund (SMIF) is in the General Fund. This money cannot be transferred to the Commission's contracted investment services provider (Everen Securities) and the boxers' individual pension accounts are losing money. The state has authority to borrow against these monies without paying interest while at the same time the Everen portfolio has earned approximately 18%.
- Both the neuro/pension accounts were established by statute (18711/18881 & 2). These are assessments placed on promoters in regard to sold and complimentary tickets.
- A new form of full-contact martial arts has emerged called submission fighting. These events are currently illegal based upon current CSAC regulations. CSAC is in the process of finalizing regulations to bring these events under our scope of authority. Aside from this being a health and safety issue, it is a potential revenue source.

ISSUE #8. THE SOURCE OF FUNDING FOR THE REQUIRED NEUROLOGICAL TESTING OF BOXERS MAY BE IN JEOPARDY.

BACKGROUND: Business and Professions Code Section 18711 requires neurological examinations as a condition of licensure and authorizes an assessment on professional boxing events to fund this program. The Commission currently charges an assessment of .60 cents per ticket sold and complimentary tickets. Despite a recent restructuring of the testing requirement to reduce testing costs (from a per-ticket assessment of \$1.25 to .60 cents), the program is facing funding problems. As mentioned above, the source of funding for the required neurological testing of boxers is eroding, as is the funding for the Professional Boxers' Pension Plan, due to the popularity of events on tribal lands.

Despite the eroding funding base for this mandated program, it is the Commission's position that a further increase in the assessment would put some boxing promoters out of business and revenues would continue to decline. Nonetheless, if this decline in revenues continues, the Commission will have to either increase the per-ticket assessment or identify alternative funding sources (such as assessing boxers for a portion of the examination costs) for the neurological examination program.

QUESTION #8: *Why is the source of this funding eroding and what changes has the Commission made, or anticipates it will have to make, to deal with the reduced funding of this program? Are there any other issues pertaining to the Commission's neurological testing and ringside physicians programs?*

ANSWER #8:

- The fund has eroded due to the exodus of boxing events to tribal lands where the commission has no authority to collect the per-ticket assessment. The Commission may seek federal legislation that would authorize the collection of any state fees/assessments required by the state for bouts held on tribal land. It should be noted that there is only one Native American tribe in California that is actually licensed as a professional boxing promoter (Pala Band of Mission Indians – Spotlight 29 Casino). All other promoters are licensed by CSAC and are paid a generous site fee for promoting their bouts on tribal land (i.e., Top Rank Inc.).
- Federal Legislation
- The Commission no longer pays for the neuro examinations from the per ticket assessment. The boxers/managers now pay for the neuro examination. Assessments collected fund on .5 PY to administer the program (exam review for licensing – monitoring – system input etc.)

ISSUE #9. THE SOURCE OF FUNDING FOR THE PROFESSIONAL BOXERS' PENSION PLAN MAY BE IN JEOPARDY.

BACKGROUND: Pursuant to Business and Professions Code Section 18881, the Commission is required to administer a pension plan for boxers who engage in boxing contests in this state. Established in 1981, the pension program originally was supported by an assessment on professional boxing promoters based upon tickets sold and complimentary tickets. In 1996, the Professional Boxers' Pension Plan was changed from a "defined benefit" plan to a "defined contribution" plan. The plan is no longer funded by contributions from the boxers, managers and promoters. Funding is now based on a per-ticket assessment (both tickets sold and complimentary tickets) for each professional boxing event. The per-ticket assessment was established at 46 cents per-ticket but subsequently increased to 88 cents per-ticket.

Like other Commission programs, funding for the pension plan is also in jeopardy. Specifically, the per-ticket assessment method of funding is not adequate as boxing events are now being held on Indian reservations. While federal law does allow the Commission to supervise these events, it cannot collect any assessment on tickets for either the boxers' pension plan or the neurological examination program. The Commission has negotiated with the tribes to provide supervisory services for boxing events held on tribal lands at a flat fee of \$1,500 per event. Apparently, the revenues generated from this flat fee are insufficient to fund the Commission's current level of activity, or to accommodate any growth in its operations. Another factor in the receding funds, is related to pension contribution refunds to eligible professional boxers. If professional boxers meet certain criteria they are eligible for a cash refund of contributions.

Clearly, the Commission is facing substantial budget issues. Without some sort of revenue realignment, the Commission's ability to carry out its mission of protecting the health and safety of boxers/fighters, caring for retired boxers, and ensuring that bouts are fair and competitive, is in serious jeopardy.

QUESTION #9: *What has the Commission done to improve the viability of the Professional Boxer's Pension Plan, and what would the Commission recommend to assure solvency of the plan in the future? How many boxers/fighters are currently receiving any benefits, and what monthly or lump sum payments have been made to these respective "retirees?"*

ANSWER #9:

- Bob Fellmeth –
- Through the bid process the Commission removed the invested funds from Columbia Trust to Everen Securities (\$ 3 M) and is receiving a much higher rate of return at 18%.
- The Commission would recommend depositing all monies with the ISP rather than the SMIF where it is losing valuable interest. The Commission has support in this recommendation from DOF; however, the State Controller has advised us that we must keep depositing into SMIF. Legislation may be needed.
- There are currently 400 vested boxers which means they are eligible for benefits at age 55.
- To date we have refunded \$ **208,162** to boxers who have had a break in service and do not meet the vesting criteria.
- We have also refunded \$ **25,533** to boxers who are permanently disabled.

ISSUE #10. SHOULD THE COMMISSION CONTINUE ITS JURISDICTION OVER PERSONS AND ENTITIES CURRENTLY LICENSED BY THE COMMISSION? ARE THERE NEW REGULATORY JURISDICTIONS WHICH THE COMMISSION IS CONSIDERING?

BACKGROUND: The Commission regulates some 14 categories of boxing professionals from professional boxers to timekeepers. In its previous review of the Commission, the JLSRC recommended that the Commission should analyze the need for all current licensing categories. Specifically, the Commission was asked to evaluate the advantages and disadvantages of eliminating licensing for ticket sellers, ticket takers, announcers, box office employees, and door persons. The Commission has deregulated some of these license categories (ticket seller, ticket taker, box office employee, and door person), but there may be more opportunity for further deregulation of non-essential personnel.

Conversely, a new form of full-contact martial arts has evolved, which is known as "mixed martial arts" or "submission fighting". These events currently are illegal and operate underground to avoid Commission scrutiny. The Commission is in the process of drafting regulations to bring these events under its purview.

QUESTION #10: *Are there any persons or entities that the Commission currently licenses which should no longer fall under the jurisdiction of the Commission? Does the Commission still*

have any jurisdiction over wrestling matches? Does the Commission believe there are new regulatory jurisdictions in which they should be involved based on protecting particular athletes rather than on revenue merits only?

ANSWER #10:

- The Commission does not foresee deregulating any future license category. All of the remaining categories are health and safety categories. These licensees require commission scrutiny and evaluation based upon the nature of the sport.
- Professional wrestling was deregulated in 1989; however, the Commission still has the authority to collect gate taxes. This is one of our major revenue sources.
- The “new” martial arts and submission fighting events are just as deadly as boxing and kickboxing. These events are currently held “underground” or on tribal land.
- These events should be regulated the same as boxing and kickboxing. As it stands now CSAC has no knowledge of the ability of the participants, which I am sure results in gross mismatches. There are also the questions of participants who may have been recently KO’d, adequate medical personnel, quality and ability of ring officials, and the overall welfare of the combatants. While this would provide additional revenue, CSAC’s main goal is health and safety.

ISSUE #11. IT IS UNCLEAR WHAT JURISDICTION THE COMMISSION HAS OVER BOXING AND FIGHTING EVENTS ON TRIBAL LANDS, AND WHETHER BEING PROPERLY REIMBURSED FOR CURRENT REGULATORY ACTIVITIES.

BACKGROUND: As discussed above, the Professional Boxing Safety Act of 1996 preempts state regulation of professional boxing on tribal lands. Because of this statute and the lucrative fees that tribes are paying to attract these events, many promoters have been holding their fights on Indian reservations. The Center for Public Interest Law reports that from January 1 through March 26, seven of the thirteen boxing events held in California were held on tribal lands. Former Commission staff negotiated a flat fee of \$1,500 per event for supervision of events on tribal lands. However, this fee does not include an assessment for either the pension plan or the Commission’s neurological fund that finances required neurological tests for all licensed boxers.

Boxing on tribal lands not only presents a funding challenge to the Commission but also a regulatory one. Clearly, the Commission needs to resolve how it will provide oversight for these events. Boxing on Indian reservations poses some of the same challenges to state regulatory authority that Indian gaming does, and the Commission may need to participate in high level negotiations to establish a comprehensive regulatory scheme in this area.

QUESTION #11: *Should the Commission pursue any regulatory or supervisory role at boxing events held on Native American lands in California, even if there are no formal agreements with each tribal council and insufficient funding to pursue those regulatory functions? What current*

activities is the Commission involved in on tribal lands. Are all of these activities considered within the jurisdiction of the Commission, and if not, does this create a legal liability problem for the Commission? Is General Fund money being used to support these current activities? Are all of these activities being supported by reimbursements from tribal councils, and if not, doesn't this create a fiscal liability problem for the Commission?

ANSWER #11:

- Actually the Professional Boxing Safety Act of 1966 permits state commissions to regulate tribal events if a particular tribe does not have a tribal athletic commission. This Act does not authorize collection of appropriate state fees.
- CSAC should continue to supervise these events on purely health and safety issues.
- CSAC currently supervises all tribal boxing events. In fact the tribes welcomes CSAC supervision.
- Current CSAC administration along with the AG consider those tribal events within CSAC jurisdiction. If CSAC didn't supervise these events boxers could be fighting while on medical, injury or KO suspension which did in fact happen in 1993.
- The \$1,500 negotiated fee covers CSAC staff time which would normally come from the General Fund. The GF is losing revenue in the form of gate taxes.
- The only current liability is loss of revenue.

ISSUE #12. SHOULD THE COMMISSION BE CONTINUED, OR ITS ROLE BE LIMITED TO AN ADVISORY BODY AND THE REMAINING FUNCTIONS BE TRANSFERRED TO THE DEPARTMENT OF CONSUMER AFFAIRS?

BACKGROUND: During the review of the Commission in 1995/96, the Commission was not subject to a sunset date. Initially, it was unclear whether the Commission could be subject to sunset, since it was created by initiative act. However, based on an opinion from Legislative Council, a sunset date of the Commission was included in legislation that passed in 1996. This sunset date is similar to other boards that are being reviewed by the JLSRC during this year.

During the prior review, the JLSRC and the Administration concurred that the Commission should continue as a separate agency to enforce the provisions of the Boxers Act. Inherent in that conclusion was the belief that the Commission was performing its administrative responsibilities better than any reasonable alternative, and that transfer of the program to be administered directly by the Department of Consumer Affairs, without an appointed Commission, was not warranted.

However, the JLSRC did identify a number of issues and problem areas for the Commission to deal with in its prior review, and accordingly made recommendations for the Commission to implement. The Commission has made attempts to deal with some of these issues, but there are

still several issues that remain unresolved. Whether or not to continue with the Commission, rather than having the Department administer this program, would depend on how responsive members of the JLSRC believe the Commission has been to prior issues and concerns raised by this Committee, and how committed it will be to resolve current issues and problem areas identified in this paper. Of primary concern, is the confidence which members of the JLSRC have in the Commission to continue with the protection of boxers and martial arts fighters, or other related areas pertaining to boxing/fighting matches and events.

The Commission should summarize the efforts it has made to improve its overall effectiveness and efficiency to operate more in the interest of protecting boxers/fighters and ensuring that bouts are fair and competitive. It should also indicate its future commitment to resolve particular issues identified by this Committee.

QUESTION #12: *Why should this Commission be continued? Summarize what changes have been made to the current regulatory program since its last review to improve its overall effectiveness and efficiency so that it may operate more in the interest of protecting boxers/fighters and ensuring that bouts are fair and competitive.*

ANSWER #12:

Summary of Changes:

- HIV/HBV testing within 30 days of licensure.
- Moved weigh-ins to day before an event to permit re-hydration of participants.
- Looking into soft contact lenses.
- Stopping illegal submission fighting events.
- Deregulated some license categories.
- Increased the screening of ability for amateur boxers turning professional.
- Streamlined and updated the neurological examinations.
- Utilized the national registry for boxer suspension status.
- Each individual bout, from 4 round preliminary bouts to 12 round world title bouts must be approved by CSAC. To ensure fair/compatible bouts we factor in ring-record, ability, and ability of previous opponents. CSAC disapproves approximately 20% of all proposed bouts per year.
- Professional boxing is the ultimate “blood sport” where the goal is for a participant to render his opponent unconscious. This is not a team sport where the objective is to gain the most points.

- The majority of boxers are from “third world” countries or who have led impoverished lives in America. Their educational level and in some cases their socialization skills are extremely low. Without CSAC, they would be at the mercy of unscrupulous promoters, managers, matchmakers, etc.
- CSAC’s primary goal is the health, safety and welfare of the participants.
- We strive to no end to have the most compliant and highly trained ring officials and physicians.
- We will deny licenses for lack of ability and retire boxers before they have reached their limits.
- We have an exceptional, dedicate, and knowledgeable staff who will go the extra mile to protect our licensees.
- Although we do provide a service to consumers, another of our main goals is to protect our licensees from each other.
- I am sure that this Commission would be appalled at some of the things that take place in states without an athletic commission.

PART 5

California State Athletic Commission

FINAL RECOMMENDATIONS OF THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE AND THE DEPARTMENT OF CONSUMER AFFAIRS

The Following Recommendations were Adopted by the Joint Legislative Sunset Review Committee on April 11, 2000 by a Vote Of 5 to 0:

ISSUE #1. (CONTINUE TO REGULATE AND LICENSE ALL OF THOSE DIRECTLY INVOLVED WITH BOXING AND MARTIAL ARTS EVENTS?) Should the Commission continue to regulate all professional and amateur boxing and full-contact martial arts events? And to license professional boxers, amateur/professional martial art fighters, promoters, managers, seconds, matchmakers, referees, judges, timekeepers, gymnasiums, and professional and amateur clubs?

Recommendation #1: *The Joint Committee and the Department recommends that the state continue regulating boxing and other contact sports.*

Comments: Concern for public health and safety and the physical and financial well-being of athletes in these sports requires ongoing state regulation of the profession. Industry changes, including the evolution of new and more aggressive martial arts matches, the movement of high-stakes boxing events to tribal lands, and women entering the profession, may necessitate an even higher level of state involvement.

ISSUE #2. (CONTINUE WITH THE COMMISSION?) Should the Commission be continued, or its role be limited to an advisory body and the remaining functions be transferred to the Department?

Recommendation #2: *Given the need for regulation of this industry, the Joint Committee and Department recommends continuing the present regulatory structure of the Commission.*

Comments: Recent improvements to the physical and neurological examinations for boxers and aggressive efforts to retain oversight of events broadcast on cable television indicate a strong consumer protection mission at the Commission. The Department and the Joint Committee have not been presented with any information suggesting a need to change the regulatory structure for this profession, although its reliance on general funds is arguably a concern.

ISSUE #3. (REVIEW ECONOMIC VIABILITY OF THE LICENSING PROGRAM?)

The sources of funding for the Commission's various programs is eroding due in part to the fluctuation in the number of events held within the state, the increased use of Indian casinos to hold boxing matches, and its inability to receive a 5 percent tax on pay-per-view boxing broadcasts.

Recommendation #3: *The Joint Committee and the Department recommends that the Commission review whether their licensing fees should be increased and identify alternative funding mechanisms to ensure that its critical consumer protection is continued.*

Comments: The Department agrees with the Joint Committee that the Commission's economic viability is in jeopardy. A number of factors contribute to the Commission's inability to be self-funding and its continued reliance on the General Fund. (The Commission is the only Department licensing program to receive General Fund support.) First, the license renewal system creates unstable revenues because they fluctuate as the number of events held in the state changes. Second, declining contributions to the pension plan and neurological examination program are jeopardizing the overall funding of the Commission. This decline in revenues can be attributed to the movement of fights to tribal lands, which limits the Commission's ability to collect its standard licensing fees. (Under the federal Professional Boxing Safety Act of 1996, the Commission is allowed to supervise boxing events on tribal lands, but is prohibited from applying its standard licensing fees, ticket assessments, to those events.) Third, the Commission's most recent effort to establish an alternative funding source failed when a federal court enjoined the Commission from applying its normal event tax on pay-per-view broadcasts. The loss of this funding source (up to \$800,000 in potential annual revenues) has seriously hindered the Commission's ability to be self-funding.

ISSUE #4. (TAKE STEPS TO PROVIDE SUSTAINABLE PENSION PLAN FOR BOXERS?) The Commission's statutorily mandated pension plan for boxers also appears to be facing a serious funding shortfall, and for the same reasons already stated. Additionally, the pension fund's reserves are decreasing as eligible boxers begin to collect their retirement benefits.

Recommendation #4: *The Joint Committee and the Department recommends that the Commission take the following steps to make the pension fund sustainable:*

- *Negotiate revisions to the fee for overseeing events on tribal lands.*
- *Review the current level of ticket assessments.*
- *Conduct an actuarial review of the fund to determine its future solvency needs.*

Comments: As noted by the Joint Committee, the Commission's statutorily mandated pension plan for boxers also appears to be facing a serious funding shortfall. Here too, the movement of events to tribal lands is limiting the Commission's ability to perform its responsibilities. Because it is unable to collect ticket assessments, which are the primary funding source for the pension plan, the Commission is instead receiving a flat fee of \$1,500 per event held on tribal lands. This flat fee structure is not generating sufficient funding to accommodate current responsibilities or future growth in the pension program.

ISSUE #5. (OTHER ACTIONS NECESSARY TO DEAL WITH FUNDING AND AUTHORITY OF THE COMMISSION?) Are there additional actions or steps which could be taken to deal with the impending fiscal crisis of the Commission, and to determine what legitimate authority the Commission may have over boxing and martial art fights held on sovereign tribal lands?

Recommendation #5: *The Joint Committee recommends that the Commission should pursue an opinion from the Attorney General on what authority it may have to enforce its health and safety standards for boxing matches held in Indian casinos and what assessments of the Commission's may be collected. The Joint Committee shall seek a Legislative Counsel opinion on whether legislation could be reenacted in conformance with current case law to allow an assessment on pay-per-view boxing broadcasts.*

Comments: In addition to the steps recommended by the Joint Committee and the Department, it should be clear what legal authority currently exists for the Commission as it involves boxing matches which are held at Indian casinos. As yet, there has been no formal legal opinion issued by the Department or the Attorney General's Office. Also, it was argued by the Center for Public Interest Law, that there may be a way to rewrite the law, conforming to current case law, so that the Commission could collect a fee on pay-per-view boxing broadcasts, which it originally intended to do under Section 18830 of the Business and Professions Code.

ISSUE #6. (REVIEW WHETHER MANDATORY PREGNANCY TESTING IS NECESSARY?) Should pregnancy testing of female boxers/fighters be required and under what conditions?

Recommendation #6: *The Joint Committee shall seek a Legislative Counsel Opinion to determine if the Commission has current authority to set regulatory standards for pregnancy testing. If not, then the Commission should conduct a public hearing to address this issue before pursuing legislation to grant it authority to establish standards for pregnancy testing.*

Comments: One of the most controversial issues facing the Commission is the pregnancy testing of boxers and martial arts fighters. As the popularity of female boxing increases, there is a growing concern about the consequences that may arise from female athletes fighting while pregnant. California is one of the few states that does not mandate this type of medical examination. It is not clear whether the Commission may already have authority to pass regulatory standards for pregnancy testing, rather than having to seek legislative authority.

However, if it does not have the authority to set regulatory standards for pregnancy testing, it should only pursue legislative authority after it has addressed the following issues at a public hearing:

- a) Whether pregnancy will automatically disqualify a woman from licensure?
- b) Whether this “finding” could be done by a boxer disclosure procedure?
- c) Whether it will be the examining physician’s duty to determine the health and physical condition of the prospective boxer before she enters any sanctioned fight or match?
- d) Whether liability will rest with the promoter, boxer, and examining physician – not the Commission?
- e) How to address privacy concerns and how to keep pregnancy information confidential?

ISSUE #7. (COMMISSION’S INSPECTORS HAVE ADEQUATE AND INDEPENDENT ENFORCEMENT AUTHORITY?) Should there be changes to the qualifications for employment of the Commission’s inspectors to assure they have the appropriate experience and background to deal with violations of the Boxing Act?

Recommendation #7: *The Joint Committee recommends that the Department and the Commission should review whether peace officer status for the Commission’s inspectors is necessary, or whether other qualifications for employment should be required to assure inspectors have adequate and independent enforcement authority.*

Comments: There is some question as to whether Commission inspectors have adequate and independent authority to fully enforce the Boxing Act. Violations of the Act may involve criminal activity and may include other activities or investigations that may result in criminal prosecution in which investigators with peace officer status may be appropriate. Some of the cases of the Athletic Commission may also involve complex issues where experienced investigative techniques would be required. Almost all of the Commission’s inspectors are “event only” employees. They are mostly part-time employees who hold other full-time jobs, are retired, or are otherwise employed by the Commission in full-time position classifications in addition to the inspector classification. Also, most inspectors, pursuant to the experience requirements of the classification, are experienced with or formerly connected with the boxing industry.

ISSUE #8. (IS THERE ADEQUATE PROTECTION FOR STUDENT ATHLETES FROM HEAD RELATED INJURIES?) Student athletes are experiencing, at an increasing rate, the same type of head related injuries that boxer/fighters receive in their sport. Although not an issue directly related to the Commission, it appears as if some of the same safety and health standards required by the Commission should be considered for student athletes who are participating in contact sports.

Recommendation #8: *The Joint Committee, in conjunction with the Senate Education Committee, shall hold a public hearing to review this issue. The Commission’s safety standards and requirements to protect boxers/fighters against head related injuries might serve as a model to assure the safety and health of student athletes.*

Comments: There appears to be an increase in neurological type injuries to athletes, both in the sports regulated by the Commission, and those in which the Commission has no authority. In a 1997 report by the National Collegiate Athletic Association (NCAA), it stated that “nine of every 10 head injuries in football are reported as concussions, and that this was the highest recorded in the sport since 1986. (At this time, staff has not been able to obtain any information related to the extent of head injuries for California high school athletes.) Although this issue is not related to the Commissions responsibility or jurisdiction, it is of a serious enough nature to be considered by the Joint Committee since the Commission has dealt directly with these types of injuries and has established standards for the protection of the athletes it regulates. The Senate Education Committee should also be involved, since high school sports are generally governed by the Department of Education, local school districts and the California Interscholastic Federation.